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THE F-22 PROGRAM

HEARING

BEFORE THE

AIR AND LAND FORCES SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

HEARING HELD

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THE F-22 PROGRAM

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
AIR AND LAND FORCES SUBCOMMITTEE,
Washington, DC, Wednesday, November 19, 2008.

The subcommittee met, pursuant to call, at 12:38 p.m., in room 2118, Rayburn House Office Building, Hon. Neil Abercrombie (chairman of the subcommittee) presiding.

OPENING STATEMENT OF HON. NEIL ABERCROMBIE, A REPRESENTATIVE FROM HAWAII, CHAIRMAN, AIR AND LAND FORCES SUBCOMMITTEE

Mr. ABERCROMBIE. Aloha. Thank you all for coming today. I have an opening statement, as does Mr. Saxton, and then we will get right to Mr. Young and to Mr. Van Buren.

This afternoon we indeed welcome John Young, the Under Secretary of Defense for Acquisition, Technology and Logistics (USD/AT&L), and Mr. David Van Buren, the Principal Deputy Assistant Secretary of the Air Force for Acquisition and Management, to provide testimony on the F-22 program. Mr. Young has been extraordinarily helpful and hardworking, I want to say as well, add that, not always the same thing, Mr. Young over the past year.

And, Mr. Van Buren, I am happy to see you again. Your work before with Novasol and other high-tech innovation commitments as you have made before I think make you particularly helpful with regard to acquisition and management, and it is nice to see you.

The primary issue we plan to address at this hearing is the Department of Defense (DOD) apparent intent to not fully implement section 134 of the National Defense Authorization Act (NDAA). Having started out in such a complimentary fashion, I am sure you knew, Mr. Young, that I would then follow that up with my observations with regard to our defense bill.

Section 134 authorizes the obligation of up to \$140 million to sustain F-22 long-lead component production from November until March, to preclude program cost growth, and to avoid prejudicing a decision of the incoming Administration on whether to procure additional F-22 aircraft beyond the 183 now planned.

Earlier this year, Secretary Gates and other officials in the Office of the Secretary of Defense (OSD) testified that they wish to defer the final decision on F-22 production line, the closure of same, to the next Administration. However, the Department's budget request for the fiscal year 2009 did not include either advance procurement (AP) for additional F-22s in fiscal year 2010 to sustain production or funds to shut down the F-22 production line. We

were told by the Air Force that because the Office of the Secretary of Defense did not provide advance procurement to sustain advance procurement of the F-22 components, that the cost impact of the program would be \$500 million if the decision was made in March of 2009 to proceed with additional F-22 aircraft procurement. Since the Office of the Secretary did not provide the funding, Congress did, authorizing and appropriating \$523 million for the advance procurement in the fiscal year 2009 National Defense Authorization Act of 20 additional F-22s for the fiscal year 2010. In other words, we tried to combine a policy decision with the necessary funding to implement that policy as best we could understand it and manifest it in the defense bill.

The authorization act limited the obligation of this \$523 million to \$140 million until the next President certifies by March of 2009 to the congressional defense committees that either more F-22s—for either more F-22s or shutting down the F-22 production line is in the national interests of the United States, either procuring more or shutting down the line. And we would take guidance then from that, not necessarily agree to it. That is not the issue before us today, nor do I intend—I hope the Members won't necessarily pursue that argument today or that proposition today.

On October 14, the authorization act was signed into law by President Bush. Shortly thereafter, the Air Force submitted an acquisition strategy proposal to the Office of the Secretary of Defense to obligate the \$140 million, to implement section 134, and to support a November 27 contract award. But that request was denied. I hope that that will be addressed today.

On November 10, Secretary Young, in an acquisition decision memorandum (ADM), directed the Air Force to proceed with advance procurement of only 4 aircraft, with an option for 16 after January 21, 2009, the inauguration date, and limited that obligation to only \$50 million, asserting this will have little or no cost impact to the program. This is my understanding, Mr. Young. The Air Force had informed the subcommittee in July that \$140 million would be required by November to avoid a cost impact to the program if a decision were to be made in March.

By the way, parenthetically, Mr. Young and Mr. Van Buren, I am going over all of this not because I don't think you know it, but there may be those observing who do not, and to make sure that we are coming from the same set of premises even though you may disagree with them or have a different perspective, I want to make sure that you know what my reasoning is and what I think the sequence of events were as I understood them to be.

So to repeat, the Air Force had informed us that the \$140 million would be required—these numbers were not picked arbitrarily, I assure you, nor were they capriciously picked—to avoid a cost impact on the program if a decision were to be made in March to proceed with additional F-22s. The Office of the Secretary of Defense, as mentioned, now indicates that instead of \$140 million, \$50 million is sufficient. Obviously I have to be concerned about that because that was not the information that we received from the Air Force. If there is a disconnect between the Office of the Secretary and the Air Force, we need to know it, and we need to know why and how.

The Air Force currently estimates that with only \$50 million for obligation in November, that this will increase the program cost by \$200 to \$500 million. That is my information. If the decision is made to buy 20 additional aircraft, depending on when the decision is made—excuse me, let me—to increase the program cost by \$200 to \$500 million, if the decision is made to buy 20 additional aircraft, depending on when the decision is made after January 21, that is why I say \$200 to \$500 million. I am not trying to just slip numbers in to inflate the numbers. It depends when the decision would be made on the 20 additional. Conversely, the Office of the Secretary of Defense indicates there will be little or no additional costs. There is a huge discrepancy here.

We hope to find out today why OSD declines to fully implement section 134 of the National Defense Authorization Act to preclude the expenditure of up to \$500 million in additional costs if the new Administration decides to proceed with the F-22 procurement.

In sum, Mr. Young, Mr. Van Buren, my concern here is that you may be contending that the \$50 million is sufficient, and therefore maybe could say, well, yes, we understand that the number in the defense bill, which we are bound to observe by law, is \$140 million, but we can do that for \$50 million. If so, I am going to need to know how you think you can do that in the light of what information we have been receiving that would—the expenditure of the \$50 million in lieu of the \$140 million, we are told anyway, will engender a much greater cost of so many millions of dollars per copy of the F-22 should a decision be made down the line.

And that is information we, in fact, got from the Air Force. We are not trying to run around you, we are just simply receiving information on inquiry by the staff.

So that is where we are right now. And the implication of that in terms of the relationship between branches of government is serious. That is another reason for having the hearing now before we—rather than just waiting until January until the new Administration comes in.

The Congress rules. The Pentagon can propose, and not only propose, but admonish and engender and do all kinds of—make all kinds of propositions and put forward recommendations. And as you know, Mr. Young, particularly in our relationship, I pay very close attention to what you have to say. I have great respect and consideration for your work effort and the quality of that work effort with the people with whom you have associated yourself. Nonetheless, in the end, the Congress makes the decisions, and we have to live with that. And this instance, then, it seems to be almost—I won't say willful in a pejorative sense, but a willful rejection of what you have been ordered to do.

Now, if there is good reason for that because circumstances have changed, that is one thing. But that is why I think the hearing is so important today that we not lose sight of the fact that the Congress in the end writes a defense bill for a reason, because that is the policy that has evolved. And at least as far as this committee is concerned and the defense bill is concerned, it is a consensus document. It is not an arbitrary document imposed by the one party over another, let alone one branch of government over another. It is a considered document that has the input and imprint

of a bipartisan majority, clear majority, virtually unanimous in the sense of this defense bill.

And with that, and with reference to that, I want to now ask Mr. Saxton for his remarks and indicate yet once again for the public record my respect and admiration of Mr. Saxton and my gratitude to him for his mentorship while I served in this Congress, and express at the beginning of his remarks my sincere hopes for all the best in his future.

STATEMENT OF HON. JIM SAXTON, A REPRESENTATIVE FROM NEW JERSEY, RANKING MEMBER, AIR AND LAND FORCES SUBCOMMITTEE

Mr. SAXTON. Mr. Chairman, thank you very much, and thanks for the kind words. I appreciate them very, very much.

Mr. Chairman, you raised, not surprisingly, I suppose, since we have been working this issue together for quite some time—you raise the same questions that I would raise in my opening statement. And so I will refrain from going through the whole thing.

I just would say, Mr. Young, I would ask you today, we hope you can explain how you determine that \$50 million would be adequate to keep the long-lead suppliers under contract. That is the main question. Our belief is that it would cost something like \$90 million more than that, and so, of course, that is the \$140 million figure that Chairman Abercrombie was talking about. And I fear that the withholding of the \$90 million may already be impacting some suppliers and driving up long-term costs. And I think that is the basic question that we would like to dwell on here today.

So, Mr. Chairman, I ask unanimous consent that my entire statement be placed in the record.

Mr. ABERCROMBIE. Without objection.

[The prepared statement of Mr. Saxton can be found in the Appendix on page 39.]

Mr. ABERCROMBIE. All witnesses' prepared statements will be included in the hearing record. And we obviously have members of the full committee and members from our subcommittee that may be attending or are already in attendance today, and any statements they have we will submit to the record, without objection.

And, of course, they are welcome to participate, and I ask unanimous consent that non-subcommittee members be allowed to participate in today's hearing after all committee members have had the opportunity to ask questions, and seeing no objection, non-subcommittee members will be recognized at the appropriate time.

Mr. Young, before I ask you to proceed with your statement, then, if I can just follow up on Mr. Saxton's observations just a little bit, because I think I may not have made that entirely clear in my remarks. I am concerned, as I am sure you are, with the implications for suppliers. It is sometimes—it is I am not going to say easy, but it can occur that we have discussions here that tend to be somewhat abstract or observational, but the real-life and real-time considerations for the manufacturers and the suppliers of the component parts of these terrifically complicated and difficult military platforms in terms of assembly and movement, they just don't appear. They have to be—and they aren't just assembled. Everything from the raw materials to the component production is an ex-

traordinarily complicated and involved operation where real lives, payrolls, production time schedules, management challenges and so on have to be met. And that is part of the reason, again, for the hearing, that if, in fact, there are costs associated with a failure to anticipate correctly what is necessary to fulfill the requirements of section 134 of the defense bill, if that is, in fact, going to take place, we need to know.

We don't want that to happen because the adverse effect on people's lives would be considerable, over and above the efficacy of the procedures with regard to the actual production itself of the F-22 and the numbers that would be suitable to the strategic interest policy questions that are involved in this. Okay?

STATEMENT OF HON. JOHN J. YOUNG, UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY AND LOGISTICS

Secretary YOUNG. Chairman Abercrombie, Ranking Member Saxton, distinguished members of the subcommittee, I am here to testify about the Defense Department's plan for F-22 production. Consistent with previous Defense Department decisions, the fiscal year 2009 budget nor the Defense Department's draft of a fiscal year 2010 budget included funds for purchasing additional F-22 aircraft.

Consistent with Secretary Gates' commitment to enable President-elect Obama's Administration to review the F-22 program, the Department is taking steps to sustain F-22 production. First, I recently approved obligation of up to \$50 million as partial advance procurement for four F-22 aircraft, as you noted. Second, this Administration plans to propose the purchase of four F-22 aircraft in the second fiscal year 2009 supplemental. These combined actions enable the next Administration to make a decision on purchasing additional F-22 aircraft.

It is my understanding, based on discussions with industry, personal discussions, that the taxpayer will not pay significantly higher costs for additional F-22 aircraft if decisions are made to obligate additional advance procurement funds in January followed by a Presidential certification and decision in March. Delaying these decisions could increase the costs of the airplanes; however, spending additional advance procurement at this time could waste taxpayer dollars in buying parts for airplanes that the next Administration may not purchase.

As I understand it, the key issue for this hearing is to discuss whether DOD should obligate additional funds for all 20 aircraft now, essentially prejudging the next Administration's decisions.

One aspect of this discussion revolves around industry estimates of higher prices for F-22s based on the timing of the release of advance procurement funds. I would offer a caution. First, these are industry estimates that have not been negotiated. Virtually every contract discussion I have seen starts with higher industry prices and estimates. All such issues need to be aggressively negotiated, and a public hearing is not the place to lend credibility to these estimates or to conduct the negotiations.

I question the claim that delaying obligation of \$90 million of advance procurement for long-lead items by 2 months, 2 months that include Thanksgiving, Christmas and New Years, can increase the

cost of airplanes by \$200 million or 6¼ percent. Further, this is only a discussion about a delay in the partial funding of long-lead items. If approved in the supplemental, four fiscal year 2009 aircraft in the supplemental will actually be an acceleration of the F-22 program.

The Department is acting responsibly consistent with Secretary Gates' commitment and congressional direction seeking to ensure that each tax dollar is used carefully and efficiently. I appreciate the chance to explain the Defense Department's actions on the F-22, and I am anxious to answer your questions.

Mr. ABERCROMBIE. Thank you.

[The prepared statement of Secretary Young can be found in the Appendix on page 42.]

Mr. ABERCROMBIE. Mr. Van Buren, would you like to give a statement or supplement Mr. Young's remarks?

Mr. VAN BUREN. Yes, I have a statement, Mr. Chairman.

STATEMENT OF DAVID M. VAN BUREN, PRINCIPAL DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE, ACQUISITION AND MANAGEMENT

Mr. VAN BUREN. Mr. Chairman, Ranking Member Saxton, and distinguished members of the committee, thank you for the opportunity to be here before you today to discuss F-22A future procurement. As you know, fifth-generation fighters like the F-22A and the F-35 are key elements of our Nation's defense and deterrence. Both the F-22 and F-35 represent the latest generation of fighter aircraft. We need both aircraft to maintain the margin of dominance on which we have come to depend. It is this margin that grants our air and ground forces the freedom to maneuver and to attack. The F-22 and F-35 each possess unique complementary and essential capabilities that together provide the synergistic effects required to maintain the superiority across the full spectrum of conflict.

The F-22 has established a world-class production program. Lot 6 deliveries were completed ahead of schedule at a rate of about two per month. Additionally, deliveries of Lot 7 Raptors begin this month. And the first lot of the three-year multiyear procurement contract we awarded in July 2007 has been started. When the plant delivers the last aircraft of Lot 9 in December 2011, we will have completed the current program of record of 183 Raptors.

The Air Force greatly appreciates congressional support and the Secretary of Defense's (SECDEF) commitment to keep the F-22 production line viable until March 2009 to allow the next President to decide if additional F-22As are in the Nation's interest. To meet this aim, the Air Force is moving forward with a Lot 10 of F-22A aircraft. Per OSD direction, the program has commenced contract actions for advance procurement of long-lead parts and materials for 4 aircraft, with the option for advance procurement of an additional 16 Raptors. We believe the strategy meets the goal of "setting the table" until the new Administration makes a decision concerning the future of the F-22A program.

Based on the direction in the 10 November 2008 acquisition decision memorandum, or ADM, the program released the aircraft and engine request for proposals on 17 November and plans to award

an undefinitized contract action, or UCA, on 26 November. The solicitations will be based on a “not to exceed” for advanced procurement of four aircraft, followed by a request for firm, fixed proposals following the 2009—March 2009 Presidential certification.

In addition, the solicitations also included requests for “not to exceed” options for advance procurement of 16 additional aircraft, also with delivery in calendar year 2012. Full funding for Lot 10 must be included in the fiscal year 2010 budget should the next Administration’s certification, required 1 March 2009 by the fiscal year 2009 National Defense Authorization Act, support continued production.

Thank you, Mr. Chairman.

Mr. ABERCROMBIE. Thank you.

[The prepared statement of Mr. Van Buren can be found in the Appendix on page 48.]

Mr. ABERCROMBIE. Before we go to questions from the Members, I want to, Mr. Young and Mr. Van Buren, so we are again on the same page and we can have a fruitful discussion—I want to make sure I understood what you were saying. First, with regard to this hearing, I certainly don’t expect you to be conducting, nor do any Members here—conducting negotiations in public here, but you can’t conduct negotiations with the committee either in public. The defense bill is not negotiable with the Defense Department. The defense bill is the defense bill, and you obey what the defense bill says. Period. That holds for the Pentagon and the Office of the Secretary of Defense.

Now, with respect to a supplemental budget, that is not—the defense bill is the defense bill. One of the things that has loused everything up—one of the things that has messed everything up is this constant utilization of a supplemental budget, and I think you agree with me on this, Mr. Young, and I think Secretary Gates agrees, is that we should not be doing regular order defense business that is the subject of the defense bill and the subsequent appropriations in supplementals. That is one of the reasons we are in trouble. And the defense bill, and the appropriation that was associated with the defense bill, clearly try to avoid doing exactly that by authorizing and providing funds for up to 20 F–22s. That was the will of the Congress both in terms of authorization and appropriation.

So why we are talking about four or any number in a supplemental bill and referring to it as acceleration is beyond me. I don’t know that a supplemental is going to pass, or when it comes, or what is involved in it. The defense bill states explicitly what it is that Congress expects to have done. What a supplemental does or doesn’t do or how it arrives—and that don’t come through this committee. A supplemental simply goes to the appropriations, and that is a separate issue entirely from what we are here meeting today.

And finally, 4 versus 20 aircraft, again, it is the decision of the Congress. In your testimony here on page 4, this approach provides an adequate bridge until at least January 2009 without imposing significant costs. It is inappropriate to spend an additional \$90 million procurement for the 16 aircraft the Nation may not purchase. The Congress has decreed that this 20 is to be what the next Administration deals with, whether it was a McCain Administration

or an Obama Administration. It is not up to you or the Office of the Secretary of Defense to determine what an adequate bridge is. The Congress has determined what the adequate bridge was. The Congress has determined what was appropriate.

If you can show us that there is significant savings on the 20, that would be one thing, but to make a decision or to make a proposal that you have decided or the Secretary has decided or the Bush Administration has decided you are not going to go toward the 20 in my judgment says that you are not going to obey the law.

What the Obama Administration does or does not do with respect to the production of F-22s is an issue entirely separate from the question of the provision of the funds for the procurement of the 20 aircraft, long-lead procurement of the aircraft.

Now, with that, I will turn to—who is first on the list? Mr. Saxton.

Mr. SAXTON. Mr. Chairman, it is my intent to let the gentleman on my left ask questions during my time, if that is all right with you.

Mr. ABERCROMBIE. Representative Gingrey will start.

I hope, Representative, you understand my proposition here.

Dr. GINGREY. Absolutely.

Mr. Chairman, thank you and Ranking Member Saxton. Thank you for yielding your time to me. I will direct my question to Secretary Young.

Mr. Young, according to the November 18th Aerospace Daily and Defense Report, and I am going to quote, the Defense Secretary staff has told Air Force planners not to talk to congressional staffers and to work only through the Office of the Deputy Secretary of Defense, Gordon England, and Acquisition Chief John Young, yourself. Insiders on Capitol Hill contend that the Defense Department has been and is continuing to withhold F-22A funds, as the chairman said, in defiance of the law and the intent of Congress and attempt to punish the Air Force.

So my question to you, Mr. Young, why the gag order? Why do you want the Air Force not talking to Capitol Hill?

That is the question, Mr. Young.

Secretary YOUNG. I am not aware of any such gag order. So if I could, I have traded correspondence and discussions with members of this committee staff almost daily for the last two weeks. The Air Force, I know, has communicated with this committee and staff, and I am not aware of any such gag order.

Dr. GINGREY. Reclaiming my time, Mr. Young, the article speaks for itself.

And, Mr. Chairman, I ask unanimous consent to submit this article for the record.

Mr. ABERCROMBIE. Without objection.

[The information referred to can be found in the Appendix on page 53.]

Dr. GINGREY. The previous Air Force leadership was forced out, we know that, in large part due to their disagreement with you and Mr. England on this issue, and I suspect that the reason you don't want the Air Force talking to Capitol Hill is that there is an internal disagreement on the program, and the Air Force, in fact, feels that OSD is wrong on this issue and that more F-22As are needed.

Now, look, I am looking to move on to the second point in this article. Let me get to the second point because my time is limited.

The second point of the article, that you are acting in defiance of the law and the intent of Congress. That is exactly what the chairman just said to you.

Mr. Young, in your opinion, what was the intent of Congress in section 134 of this year's Duncan Hunter National Defense Authorization Act? What was the intent of section 134? Now I will let you respond.

Secretary YOUNG. I am going to step back and comment on one comment you made, and that is Secretary Gates made a decision about the previous Secretary and the previous Chief. I was never a party to that discussion. I wasn't part of it. I wasn't asked my views on anything, and to my knowledge F-22 had no bearing on his decision. So—

Dr. GINGREY. Fair enough, Mr. Young. Go ahead and respond to my question in regard to section 134.

Secretary YOUNG. Section 134, strictly read, said that we can obligate up to \$140 million. It does not require us to obligate \$140. We can obligate \$140 million up to the certification by the President that should be delivered no later than March 1st and no sooner than January 21st.

Dr. GINGREY. Mr. Young, let me reclaim my time, and maybe I could yield to the chairman or to the ranking member in regard to that. I think the language in section 134 is very specific in regard to that. I don't think it gives you the option to say that you are going to, in your own discretion, allocate \$50 million of the \$140 million. The language in the bill calls for \$500-and-something million for advance procurement and \$140 million to be allocated before the first of the year. Where are you coming from in regard to that?

Secretary YOUNG. Could I try to answer several aspects of this question?

Mr. ABERCROMBIE. Mr. Young, if you will wait a moment, Mr. Gingrey said he would defer to us on that issue so that it is clear what the question is. My understanding is that up to \$140 million, yes, if you could—if you needed to spend less than that to take care of the long-lead funding for the 20, nobody is going to argue with that. If you had to ask for more than that in order to fund the long-lead 20, presumably you would in a supplemental budget or even in the 2010 budget proposal, because in the question of the supplement, that, in fact, is an emergency, that the number that was there is not adequate and therefore requires more funds. That is a legitimate proposal to put forward or to put it in the 2010 proposal.

But the question of the 20 was not at issue. It wasn't a—it is not a question of whether or not you want 20. That is what the Congress said was going to be done. And if the next Administration wanted to make a decision about the F-22, to addition or close it or whatever it is, they would have to do it on the basis of the provision for the 20. If it was less than 140, that is one thing. But my understanding of what we did, and I was here when we did it, was that the bottom-line issue, the bottom-line number is 20 aircraft. How much needed to be spent in order to accomplish that task in

134 could be up to 140. Is that clear then, Mr. Gingrey? Are we on the same page?

Dr. GINGREY. Mr. Chairman, I think we are on the same page, and my understanding of it, to take it a step further, the only stipulation that we included was that you not obligate more than \$140 million before the new Administration reviews the program and they make a decision on the path forward.

Mr. ABERCROMBIE. That is right. It says, "Not more"—quoting in part, "Not more than \$140 million may be obligated until 15 days after the certification required by subsection (c) is received by the congressional defense committees," which means the decision of the next Administration.

Dr. GINGREY. Mr. Young, your rationalization here for limiting it to \$50 million, I think, is weak, given that you received a letter from the chairman and ranking member of this subcommittee, and it states clearly that your actions are largely inconsistent with statements made during the past year by senior Department leaders, and that not obligating \$140 million immediately would effectively preclude the procurement option of further F-22As by dramatically increasing the cost of procurement because of line closure actions that would be taken under your scenario that would have to be reversed. The letter states that the Department is expected to approve the Air Force obligation of \$140 million for F-22 advance procurement, consistent, Mr. Young, with section 134 of the National Defense Authorization Act.

Mr. Chairman, I ask unanimous consent to submit this letter for the record.

Mr. ABERCROMBIE. Without objection.

[The information referred to can be found in the Appendix on page 56.]

Dr. GINGREY. Let me just say, Mr. Young, in not following the law and the intent of this Congress, under what authority are you acting? Under what authority are you acting? Is it up to you to decide which laws the Department will follow and which they will flout? Why are you substituting your will for the will of Congress that was signed into law by the President? If you can explain that to this committee and this subcommittee, I am sure it will be very enlightening to these Members.

Secretary YOUNG. Can I—

Mr. ABERCROMBIE. Yes, of course.

Secretary YOUNG. I would ask time to answer these many comments that have been made.

Mr. ABERCROMBIE. We have time.

Secretary YOUNG. The key for me constantly as imposed on me by this committee and the Congress has been to not waste any taxpayer dollars. I am seeking to navigate multiple views of this issue. The Congress has a view as articulated in the language. I won't cover that again.

This Administration, in my opening statement I articulated that view, which is that additional F-22s are not required. The law does not require me to buy these planes as 20. I have sought diligently to work with industry and understand if it is possible to buy these airplanes, the advance procurement for these airplanes—not the airplanes; as the chairman rightly said, this is a discussion about

the advance procurement—can I buy that advance procurement as 4 plus 16 instead of 20 and impose no additional costs on the taxpayer and preserve the total flexibility and option of the next Administration to come and discuss with the Congress whether they want to buy the airplanes behind the advance procurement. And that is the option, having convinced myself that that is possible, we have sought to execute. It is consistent with the law, I believe, to execute the advance procurement as 4 plus 16. And so in January, the other 16 airplanes could be obligated, which would take the balance of obligation up to \$140 million.

And I believe that is reasonably consistent. If that option of 4 plus 16 was not totally consistent with trying to make sure the taxpayer didn't pay more for the airplanes, we would have had to look more carefully at that option. That is my fundamental goal here is to obligate money and preserve the option, as the Congress has sought to do, without incurring costs that are punitive to the taxpayer and without necessarily committing this Administration or the next Administration to airplanes for which it is not yet decided whether they will budget for those airplanes. And I do fully understand that Congress still has a decision to make with regard to buying those airplanes.

Dr. GINGREY. Mr. Chairman, assuming that I have a little bit of time left to respond to that—

Mr. ABERCROMBIE. Yes. Then I will go to Mr. Ortiz.

Dr. GINGREY. Thank you, Mr. Chairman.

Secretary Young, I understand the explanation you just gave to the committee, and I am not questioning your sincerity at all in trying to—in your discretion or your opinion, you are trying to save the taxpayers money. I don't know that you really have the discretion to do that, because it would seem to me that when this committee passes a National Defense Authorization Act, and we have a defense appropriation or authorization act here, an appropriations act, and the President signs that, and you have got clear language, I just don't see where you—where your authority comes from.

I have already made that point, but I am going to grant you the benefit of the doubt in regard to your sincerity in wanting to save the taxpayers money, but as we see it, as this Member sees it, you are doing just the opposite, because in doing so, you get to January, January 20th, when the new President is sworn in, and the long lead time, we have already—it has already gapped. It has already gapped. A lot of these vendors, particularly those involved in titanium production products, it would be a large cost, in the hundreds-of-millions-of-dollars, to start that. And then there is the issue of the tail-up costs.

I think it is just not reasonable to expect that the Obama Administration is going to immediately on January 21st look at this issue and say, oh, yes, of course, now let us get the other \$90 million for the other 16 advance procurement so we can get ready to make a reasonable decision to whether to continue the program. What you are doing inadvertently—I am not accusing you of doing it intentionally, but inadvertently—you are fostering the shutdown of this program, and I think that could be disastrous for the defense of this Nation.

Mr. Chairman, I yield back my time, and I appreciate your generosity with me.

Secretary YOUNG. Mr. Chairman, could I address those comments, please?

Mr. ABERCROMBIE. Not just right at this moment. Does that upset you?

Secretary YOUNG. It seems a little unfair, sir, but you are the chairman.

Mr. ABERCROMBIE. Fairness is my middle name.

Secretary YOUNG. Yes, sir.

Mr. ABERCROMBIE. Go ahead.

Secretary YOUNG. Okay. You are very kind.

Mr. ABERCROMBIE. That is the first time in my life I have ever been accused of being unfair as a chairman, and I wouldn't want to have that on the record or have you disappointed. So you go right ahead.

Secretary YOUNG. I don't think I meant to accuse you of being unfair, but his comments are out there, and I need to address them if I could. I will try to be brief, sir. Thank you very much.

Twenty airplanes in a year is about 1.67 airplanes a month. That is about 2, 2½ months' worth of airplanes, and I did agree in the ADM to let the Air Force negotiate an option for the other 16 airplanes of advance procurement so it could be done seamlessly in January. I believe this gets the next Administration into January and beyond.

As I said, I can't fix—the delaying decisions will take time, but I think the suggestion that I should make the decision about those 16 airplanes in that advance procurement over the next Administration which will have to see it through, manage it and budget to buy the planes behind it would be presumptuous on my part, so I am not sure I should make that choice.

Mr. Chairman, I really appreciate the chance.

Mr. ABERCROMBIE. There is a clear disagreement as to what your duty is here with respect to how we see it from the defense bill side and how you think we have written it. Maybe the language needs to be written more clearly in the future, but that—I will grant you that your interpretation, I think, clearly is at odds with what the overwhelming majority, if not the unanimous, view of this Armed Services Committee is.

Mr. Ortiz.

Mr. ORTIZ. Thank you, Mr. Chairman, and I would like to welcome our witnesses to our hearings.

Mr. ABERCROMBIE. Having fun?

Mr. ORTIZ. You know, I know that the Congress passed a budget last year, but I am just wondering is the Defense Department and Air Force talking to one another? Are you engaged in—

Secretary YOUNG. Yes, sir, on a regular basis.

Mr. ORTIZ. I think one of the reasons that we are here is that we are looking at the possibility of whether 20 planes will keep the line open or whether we can do it with \$50 million. And then we talk about the possibility—and I know that a lot of things are on hold now because we have a new Administration coming in. Are you all talking to the new Administration? Do you have anybody in the new Administration coming in that you are talking to?

Secretary YOUNG. Those discussions are just beginning, sir, and I am confident—and one of the top items on my list for discussion with the appropriate people in the new Administration is this F-22 decision, because it is a major decision, as the chairman has pointed out.

Mr. ORTIZ. So if we wait, I mean, if we don't keep the line open, and we wait to see if the Administration decides to go ahead and buy whatever needs to be bought, would that be too late in the line if we do not provide this money; would the line be shut down?

Secretary YOUNG. Sir, I think, as the chairman has tried to very concisely frame the issues, I believe the Department's actions will keep this line open and allow total open decision space for the next Administration. That decision that I am trying to make and trying not to spend 16 airplanes' worth of long lead before they can make that decision and spend 16 airplanes of long lead that might not be used if they don't buy those airplanes, as the chairman has said, is not consistent with the congressional view to obligate the long lead for 20 airplanes. But those are two separate issues. What we are doing unquestionably keeps the line moving forward.

Mr. ORTIZ. And I know that you say that you have been talking to either staff members or members of the committee about the issue that we are discussing now. Most of us have been gone for some time because we were involved in elections. So, you know, I am really sure this committee wants to do what is best, but, as Dr. Gingrey just stated a few moments ago, there are a lot of rumors circulating out there, oh, the Defense Department is punishing the Air Force for not doing this and not doing that. I don't think that that is the case, but, you know, rumors do float all over the place.

I just hope that between now and the next few days that you can talk to the new Administration coming in and a decision can be made, because we are looking at saving money if we can, because once you shut that line down, it is going to be very costly to operate it, open it up, and the prices of the items and airplanes we are trying to buy might skyrocket.

This is the only question I have, Mr. Chairman. I would like to yield to some of the other Members.

Mr. ABERCROMBIE. Thank you.

Mr. Wilson is next, to be followed by—Ms. Giffords will be after that.

Mr. WILSON. Mr. Chairman, thank you very much, and thank you for being here today, and I share the concerns of Congressman Ortiz about what we are facing.

And, Mr. Van Buren, what is the unit procurement cost impact of delaying the decision on advance procurement of 16 F-22s until March 2009?

Mr. VAN BUREN. Mr. Congressman, obviously the cost of the Lot 10 production is going to be above the \$143 million unit procurement cost of the multiyear procurement through Lot 9. And we are working through—we have had the ADM now for a period of about nine days. We are working through multiple options. We are trying to minimize the price impacts above that \$143 million number to the taxpayer. There is a range of options that are being looked at now.

I can tell you that we receive or I received just this morning the “not to exceed” prices for the advance procurement for those prices, and frankly we simply haven’t gone through it and evaluated it, but it does appear to be consistent with the numbers that were passed in the appropriations bill.

Mr. WILSON. And your response actually gives me greater concern as to any precise numbers. Does the Air Force agree that providing advance procurement for four F-22s in November and an additional advance procurement in January will bridge the F-22 program with little or no additional cost to the taxpayer?

Mr. VAN BUREN. We are working through multiple iterations of that bridge right now in recommendations to take back to Secretary Young. And I must tell you that I have seen a lot of absolute numbers fly around. I am not personally comfortable with those numbers because I don’t have firm, fixed price quotes. What I do have from the contractor is a “not to exceed” quote which is consistent with the numbers that were provided to Congress that made up the appropriations bill of 2009.

Mr. WILSON. Well, the general ranges or “not to exceed” would be helpful, so I hope those are provided to us today.

Mr. Secretary, if by congressional direction \$140 million is obligated to the F-22 long-lead items, and the new Administration decides to terminate the line, how much of the \$140 million will provide parts and other items for the sustainment of the F-22 or production of the Joint Strike Fighter?

Secretary YOUNG. I think we would have to get an answer to you for the record for that.

[The information referred to can be found in the Appendix on page 63.]

Secretary YOUNG. To be honest with you, there is a lot of confusion about the \$140 million. It is not, as I think the chairman had hoped for, an analysis of the specific parts that need to be purchased in order to ensure that we can produce 20 F-22s. It is an assumption that we would, under regular order, buy all the parts for F-22 that are required, i.e., the five long-lead parts, the \$523 million worth, and as of March 1st the government’s termination liability if those planes weren’t purchased would be \$140 million. There is a smaller subset of that \$140 million, which is the set of parts we really must buy to avoid breaking production lines and looking suppliers.

Mr. WILSON. As I conclude, again I want to thank you for being here, but I do hope that there will be greater specificity in terms of what the numbers are as we proceed.

Thank you, Mr. Chairman.

Mr. ABERCROMBIE. Thank you, Mr. Wilson.

Ms. Giffords had to do a room pick. She had to leave. As you know, where you are going to have your office takes precedence over everything else, otherwise you are in the hallway. So she has no choice on that. And I mistakenly told Representative Sestak he was next, and it is clearly Mr. Marshall, and then Mr. Sestak will follow.

Mr. MARSHALL. Thank you, Mr. Chairman.

Mr. Young, it has been pretty difficult to follow the back-and-forth here, but your last statement seems to me to be the clearest

one to date. Basically the idea is that of the 523, we said no more than 140 can be obligated, which gives the next Administration the opportunity to decide whether or not to continue with the acquisition process. And what you figured out, at least in your opinion, is that we can obligate a lot less than the 140, 50 million to be precise, and essentially accomplish the exact same objective at no additional cost to the taxpayer, and, in fact, a substantial saving to the taxpayer if, in fact, the new Administration decides not to move forward with the acquisition of additional F-22s.

What I have heard from staff is that your decision to limit this to 50 million and to only four F-22s in Lot 10 could have the impact of adding additional cost up to \$500 million if, in fact, the new Administration decides to move forward with additional F-22s.

In your testimony, what you say with reference to that is that if the decision whether to move forward is delayed until March, and at that time the new Administration decides to move forward, then the Department of Defense, quote, only faces estimated additional costs on the order of amounts Congress has permitted DOD to obligate. I take that to mean—I am a little nervous about the “on the order of amounts.” It would be nice if you simply said it is still going to cost us more than 140 million, and a total of 523.

But I take that to mean basically that there are no additional extraordinary costs that will be incurred should the new Administration move forward. So in effect your strategy offers a savings in the event that the Administration decides not to, and at the same time doesn’t hold out the prospect of large additional costs, perhaps an additional hurdle, as part of the decision whether to move forward with additional F-22s.

What bothers me, of course, about that is just having heard the possibility that there could be huge additional costs associated with this decision, and could you clarify that for us?

Secretary YOUNG. Congressman, I think you have been extremely articulate, maybe more so than me, in explaining this situation.

There are concerns, as other members have articulated. I think the chairman said it best. This is a very complex production process that starts with raw materials and builds sophisticated items. It is difficult to estimate all the aspects of this, and that is why you hear “on the order of.”

But I do believe we—

Mr. MARSHALL. You chose not to say on the order of \$500 million as possible additional costs?

Secretary YOUNG. Well, to be honest with you, sir, if I say it is \$500 million, that will be the starting point potentially for industry negotiation. I am trying very hard not to endorse those negotiations because there are other people—I actually have leadership members who have built airplanes that do not believe that some of the cost estimates for the gapping and the delays are legitimate, and that industry can manage those effectively to not have them be real.

I am not ignoring the industry estimates, but I am also not granting them credibility. And so the way you said it is exactly the right way. If we do nothing till March, I could face—and that is what I was told by industry—a cost, a cost which I would seek to negotiate away on behalf of the government. I think the likelihood

of that cost, a higher cost of the airplanes in March, is probably real. If I give them——

Mr. MARSHALL. Well, could you give us your range of what you think those additional costs might be?

Secretary YOUNG. I would appeal to you, Congressman, not to ask me to do that. I said it was on the order of what you allowed me to obligate, so I have therefore clearly put it——

Mr. MARSHALL. You are worried that if you go ahead and mention a figure that, as you put it earlier, that is going to be the starting point for negotiation. Fair enough.

Mr. ABERCROMBIE. Mr. Marshall, will you yield to me for a moment?

Mr. MARSHALL. I don't have a choice.

I mean, you are the committee chair with fairness in the middle.

Mr. ABERCROMBIE. In the interest of fairness, if you will look to—you don't have it. Let me—I am looking to J here in my folder. Let me give you something to work with. I think you got a copy.

The Air Force gave us F-22 and F-35 procurement cost estimates. And I am fully accepting what Mr. Marshall and what you were trying to get at. The Air Force has provided an estimated cost, and I presume that they are just—the reason, they go from 143 now to—if you did, in fiscal year 2010, 20 F-22s, it can, depending on the time frame, now, January and March, the figures go from 143 to 153, 163 and then between 170 and 178. That is the Air Force figures.

And if I recall what you told Mr. Marshall in return, that obviously a dispute can take place as to whether those numbers can be negotiated down, or negotiated up for that matter. Commodities prices are up and down in today's economic situation, energy costs, all the rest of them factor in and out.

But that would give—what Mr. Marshall is asking, and why I asked him to yield to me, was to give him the actual numbers that the Air Force has provided; and perhaps then you and he can have a conversation at this point at least using the estimated costs.

Secretary YOUNG. So could I finish that one thought and then add, I do believe if we do the 50 million now, and nothing until March, the price of the airplanes could be higher by an undetermined and unnegotiated amount. I believe the government needs to, to avoid a cost to the taxpayer, obligate in January some portion, possibly all the way up to the full 140 million. And I think that action could insulate the government from additional costs, subject to our negotiation with the contractor.

And I apologize to be at some possible odds with the chairman. I don't want to be. But I do believe a next Administration needs to make that decision to obligate those funds for those airplanes.

With regard to the numbers he gave you, the 143 is the current multiyear cost, so that is a totally different—that was negotiated at 60 airplanes under a multiyear. The 153 is what the Air Force, working with industry, thinks could be a price that reflects inflation as a single lot buy of 20 airplanes. And then there is estimating that is largely informed by industry estimates that takes 153 up to 163, based on the timing of advanced procurement.

I will certainly defer to Dave Van Buren, but my understanding is these are not formal Air Force estimates of the price.

Mr. MARSHALL. Let me, if I could, Mr. Chairman. Thank you.

Section 134 mentions two dates for decisions. One is January 21 and one is March 1. Are you saying that prior to January 21, the 140 million should be—pardon me, the balance of the 140, the 90 should be committed?

Secretary YOUNG. I am saying on January 21.

Mr. MARSHALL. So on January 21 it should be committed. Are you suggesting—

Secretary YOUNG. To avoid any additional cost to the taxpayer in the event the airplanes are bought, and that is my goal.

Mr. MARSHALL. And are you suggesting that the new Administration might decide prior to January 21 that it is not going to ask for additional F-22s; consequently, it might not choose to obligate the additional 90 million, come January 21, and then at some time between January 21 and March, announce that it is not going further with the program? Is that what you are suggesting?

Secretary YOUNG. Or announce that they are going forward, but they don't want to decide on January 21. It is just that they will face some risk of the airplanes costing the taxpayer a little more money if they buy themselves decision space between January 21 and March.

Mr. MARSHALL. Again, your latest little round here, the latest statement you made with the word "or." So do you contemplate that the new Administration might decide prior to January 21 that it is not moving forward with the F-22?

Secretary YOUNG. I try not to contemplate what the next Administration will do at all. My job is—

Mr. MARSHALL. Well, if it is not conceivable to you that they might choose, prior to January 21, not to move forward, then, if you are not holding out that as a possibility, it seems to me you might as well go ahead and commit the entire 140 right now.

I am a little confused as to what your strategy here is, and you might be able to help me out.

Secretary YOUNG. I am sorry, sir. Let me make sure I understand. It would be my view that we would obligate the 50, and then on January 21 or beyond, the next Administration needs to decide whether to obligate beyond the 50 to a 140 and decide whether to buy the airplanes or not. I believe all those options are preserved.

Mr. MARSHALL. When is it that the cost jumps up? On the one hand, you seem to be suggesting that if the additional \$90 million is obligated January 21, there will be no significant additional cost. On the other hand, you seem to be suggesting that if there is a delay until March, we could face very significant additional costs. And so it seems to me your advice here, at least based on what you said a few minutes ago, is that the new Administration should obligate the additional 90 January 21; don't delay, do it then to lock in costs. And if you are saying that and at the same time saying they are not going to make a decision by then, then it seems to me—well, that is why I focused on the "or."

If you are not contemplating the possibility that the new Administration will privately, not publicly, announce—will privately make a decision the F-22 is not moving forward by January 21, and you are saying if they don't decide that by January 21, then they ought to obligate the additional 90, why not obligate it now? I guess that

is the simple way of saying it, because the risk associated with delaying until March is, from what you say, quite significant. It could be that we have huge additional costs.

Secretary YOUNG. I think it is to be negotiated. I think the probability of additional costs, if no action is taken until March, is reasonably high. I think the next Administration can, as you said—I just really don't want to speak in any way for the next Administration. But I am sure they will contemplate this issue. They may even privately come to a conclusion. And they have two choices.

On January 21 they can obligate the \$90 million and decide there is some chance between zero and 100 that they will buy the airplanes, and they would rather preserve the option to buy the airplanes at no additional cost to the taxpayer, or they could choose not to obligate the \$90 million and accept that they still have a decision to be made between then and March 1st, but that decision may cost the taxpayer more money for those airplanes. They have every option available to them, and that is my job, to make available to them every possible option.

Mr. MARSHALL. Thank you, Mr. Chairman.

Thank you, Mr. Young.

Mr. ABERCROMBIE. Mr. Bartlett and then Mr. Sestak.

Mr. BARTLETT. Thank you very much for permitting me to sit in on this subcommittee hearing.

Mr. Young, thank you very much for your many years of service to your country.

I have a generic question that I need the answer to before I can intelligently make decisions relative to the kinds of things we are talking about today. I gather that in the development of a budget, that the size of the pie is determined and then the services cut into their individual pieces. That, obviously, is a somewhat political process, and we need to have the assurance that that is a rational cut. Then in trust service priorities are developed, and then you submit your budget to the Congress.

How do we determine whether the third priority for the Air Force is above or below the third priority for the Army?

We clearly cannot procure all the things that we are developing. We clearly do not have the money to prepare as we would like for the two kinds of wars that we may be faced with in the future. The kind of wars that we are fighting now require none of this really high-tech type of equipment. But we will one day face a peer, either a resurgent Russia or China. China, this year, as you know, will graduate seven times as many engineers as we graduate. That cannot continue for very long and we still remain the world's undisputed economic and military superpower.

When we come to decisions like we are faced with today, how do we determine whether this is a higher priority than something that the Army wants, and we clearly don't have the money to support both of those?

Secretary YOUNG. Congressman Bartlett, my experience in that process is the first order is what you said: The budget is sliced relatively amongst the services and the services internally make that decision. Rarely have I seen an OSD decision that would significantly—would adjudicate two programs between two services on a

relative priority basis. The services build the heart of the budget, and they make those decisions about their respective priorities.

Certainly, one thing I have discussed with both Secretary Gates and Secretary England is a need for OSD to play a greater role to ensure the joint and crosscutting capabilities are also well addressed in the budget.

Mr. BARTLETT. But if OSD doesn't do that, then we have to do it. Where do we go for the information that would give us the intelligence to make these kinds of decisions? I just have no idea, when we are talking about a third priority for the Army and a third priority for the Air Force, if they are equal. One of them, from a national security perspective and long-time concerns, may be well above or below the other. And if OSD won't help us make those decisions, how do we make them?

Secretary YOUNG. I think OSD can help with you that. I mean, there are fundamental documents like the national security strategy, and then there are independent offices, the Office of Program Analysis and Evaluation, PA&E, and my own offices that have some of the data; and then the Joint Chiefs of Staff (JCS) team which does some wargaming and modeling to help inform those competing priorities in the relative warfare value of them. So I believe we can help you with that.

And I think actually you are in the unique position to take the service input and then OSD, PA&E inputs in fact on this very F-22 issue, Program Analysis and Evaluation staff, I believe, came and briefed on their study of the need for F-22. You have access to the Air Force's view, as does the Department, and you can absorb and evaluate all that information. But you will potentially come to different conclusions than even the OSD team does about the relative priorities.

Mr. BARTLETT. I have the concern that too frequently I think the decision is made on the basis of who is the best lobbyist for the base or the factory that is their district. I don't have any base in my district that is threatened. I don't have any manufacturer in my district which is threatened. And I think that too often here the decision as to which way to go is made by the person that most effectively lobbies for that cause. That clearly is not what we ought to be doing. It ought to be determined on the basis of what is the best thing, broadly, for our military and for America.

I would hope that in the future that we will get more help than we have gotten in the past. You can't—everything can't be top priority. We just do not have the money to fund everything; and in the future we are going to have even less money, so we are going to be faced with even tougher decisions here.

I want to thank you for very much for your service. The best of luck, sir, in your future.

Secretary YOUNG. I hope we are doing what you are asking, and I think you have heard those beginnings of that from Secretary Gates. In his testimony he has testified that he has seen the analysis and he believes that we are on a path to the right mix of, in this particular space, F-22 and Joint Strike Fighters (JSF), and so we are presenting you the Department's view.

There are some in the Air Force that have a different view, and in the Congress obviously, in providing a long lead, has taken a dif-

ferent view than the Department. That will be the hard thing for you all of us to adjudicate. But from Secretary Gates down, there has been a hard look at that analysis and a view that it is a higher priority to do other things in the Defense Department than buy additional F-22s at this time.

Mr. BARTLETT. Thank you very much.

Thank you, Mr. Chairman.

Mr. ABERCROMBIE. Mr. Sestak, at long last. Sorry for the mix-up.

Mr. SESTAK. Thank you, Mr. Chairman.

Mr. Secretary, for a couple of years we had, I think, 23 aircraft one year and then the next year, single-year procurement, another 23 of the F-22s, I think for a total of 56. And then we went into 3 years of multiyear procurement for 60.

Do you remember what the cost differential was between the 56 that we procured those 2 years and the 60 that we are paying for that multiyear?

Secretary YOUNG. I don't off the top of my head. I can get that for the record.

[The information referred to can be found in the Appendix on page 63.]

Mr. SESTAK. The reason I am asking is, I asked my staff, and the difference was \$1.8 billion, which meant that a short while ago, the Congress did not have a problem of procuring 4 additional aircraft, from 56 to 60, at the cost of \$450 million for each F-22. If that is the case, I am kind of not as taken by these arguments on whether the additional cost of \$100 million—or even if it does go up to \$500 million, where were we in Congress talking about the cost back then of \$450 million per each of those 4 additional aircraft as we went from 56 to 60?

I bring that out because—and I am setting aside the constitutional issue for a moment because it seems that we have kind of gone ashore here on the matter of cost. And I do think that is the right question, but in a much larger sphere, which Mr. Bartlett got to well. And that—I think Mr. Gates made the right decision here pragmatically. I am setting aside the constitutional issue for a moment, although you seem to have fine-tuned that with a 21 January decision date, which we know is not realistic for Mr. Obama to roll in and make a decision on that day.

But I kind of have listened to this debate in DOD about more F-22s, and what Mr. Bartlett again so well brought forward. I mean, we have lost \$12 trillion in wealth in our households in the last 6 months, and the costs that are attendant to trying to reset our military forces in the future after this war are enormous.

I have watched this F-22, which some have likened to the Seawolf of the Skies, to where after three Seawolfs, they stopped and went to a Virginia class ship as the Cold War ended.

But we have taken this F-22 from dogfighter to air to ground to close air support to cruise missile strike, and yet if there was ever a case study for making sure this decision was right, of billions of more dollars, before we either, at the possible loss of \$100 to \$500 million, I think the quiet, cautious brake you have put on this is well served, at least for that to set up the F-22 as the case study to where you have a Cold War-era product that has gone through four different, at least I think, changes from dogfighter down to

cruise missile killer, at the end of its production line, but in the seventh year of a global war on terror.

And if there was a case study to hold us all back, your executive branch and this Congress to say, wait a minute, we were willing to spend \$450 million—excuse me, \$1.8 billion for four aircraft. We went from 56 to 60 multiyear buy. Maybe it is worth a little bit of tax to make sure this right decision is made, because Mr. Bartlett—and I wasn't going this path till he spoke up—has laid it out well. This is bigger; I think it is the case study of "wait a moment."

Do we really know what we are doing here when we talk about a new era, and I go back to that analogy of Seawolf of the Skies? Is there a comment on that?

Secretary YOUNG. Actually, I would be most grateful for the chance to comment.

I think there have been some comments today raising concerns about the Department's support for F-22. It may be a finer degree of detail. You are dealing with a very appropriate and high-level picture. But the Department was on a path in the 2009 budget to only have, to have 100 increment 2 and increment 3.1 jets and then a smaller fleet of about 80 3.2 jets, significant differences in capability.

To get more jets to the full increment 3.2 capability, to make them full-up rounds, \$6.3 billion of research and development (R&D) is requested to go back into F-22 and approve that architecture and backfit all those jets. This Department has tentatively put that in the Program Objective Memorandum (POM) 10 budget to make that F-22 fleet that we have and have bought capable.

And so you have very rightly highlighted some tough decisions. You can make different decisions and buy more F-22s and have a high/low mix. We have supported tentatively in this budget—and this budget will clearly be reviewed by the next Administration—but tentatively supported making the F-22s we do have fully capable assets at a very—at \$6.3 billion of procurement and something on R&D and something on the order of \$2 billion of procurement. So significant investment is still—almost \$10 billion is still going into F-22.

Mr. SESTAK. If I could, I still am taken by the argument of the constitutional intent, if not technicality. And I am not dismissing that, but if I could make one other statement, I think the issue that was well raised by the chairman on the supplemental—I have kind of been discouraged, frankly, over the last year or two that I have been here.

How could we have been putting into the supplemental anti-submarine helicopters for the Iraq war? How could we have been putting into the supplemental steaming days for the Navy that traditionally are funded at 29 days every quarter, but now we are slipping some of those in the supplemental? I think it is an atrocity to all of a sudden come forward and say we are now going to slip four F-22s or whatever into the supplemental that is supposed to be serving our men and women in uniform.

There is a process, and I hope that as the year goes on, next year, we get back into the right process, if I could.

But thanks for your comments. Go ahead if you wanted to comment on that.

Secretary YOUNG. Just one more comment on that. I won't address the other issues. I think we would need the Comptroller or others to.

On the airplanes, the Department has sought in some cases to replace combat losses, and we did ask for Joint Strike Fighters because we have lost some fighters in the war. Congress denied those because it wasn't ready for production. So the four we are talking about, while also serving as a bridge on F-22, are really being asked for because they are the available and producible airplanes for our combat losses.

Mr. SESTAK. We procured those aircraft, and you know how it is done. When we buy 100 aircraft, we already figure in how many would be lost to combat. So that is a disingenuous argument, and you know that. So I have to dismiss that.

But if I could close, I do think that how you set this up is wise for us to think about this F-22, because these are tough decisions if we really do want to—which I think Mr. Rumsfeld wanted to do the day he took over—transform our military.

Thank you.

Mr. ABERCROMBIE. Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman. I appreciate the opportunity.

Mr. Young, I appreciate you saying earlier to one of the other questions that obviously the analysis of how much planes would cost would be placed at risk if we follow the procedures you have outlined so far.

One of the things that has me concerned is, we do advance procurement practices repeatedly, year after year, in this. And as I am looking at section 134 of the bill, the B section has the language of the \$140 million.

Would there be—if that section had not been included in the conference report, would there be any question in your mind what the intent of this Congress, especially the House Armed Services Committee (HASC), was as to the allocation of these funds and the purchasing of these planes?

We authorized \$523 million to do this program. In the conference committee there was a question of the 140 million that was placed in there. Had that language not been included in the conference report, would there be any question in your mind as to what the intent of this Congress was as to the procurement, advance procurement, of these F-22s?

Secretary YOUNG. I think I understand the intent of the Congress, and I am trying to comply with the intent of the Congress while preserving the next Administration's options, and I believe the 4-plus-16 path is creating that opportunity.

Mr. BISHOP. And this language was not the reason for you coming up with this obscure approach to get to the 20?

Secretary YOUNG. No, absolutely not, sir.

Mr. BISHOP. So there was something else that confused you as to what the intent of Congress was?

Secretary YOUNG. I am not confused as to the intent of Congress.

Mr. BISHOP. Well, that is not what I am hearing from up here on this part of the room. But let that be as it may.

OSD, and especially in your report, made a great deal of effort on some of the studies that have been done. Can I simply ask you about the Whitney Bradley Brown study which was commissioned by OSD in 2006? It was funded by Congress and approved by Congress, authorized by Congress.

Why has that study not been released?

Secretary YOUNG. I am not aware of that. I will get you an answer.

Mr. BISHOP. I am making the assumption that—and I was not here earlier, Mr. Chairman—but the assumption there are at least 30 Air Force, Air Combat Command, OSD studies, including the one by Whitney Bradley Brown, which have found different numbers than the ones you certified in your opening statement as appropriate for Air Force needs.

Am I wrong in that assumption? There are that many studies that are out there with differing numbers?

Secretary YOUNG. I am not aware. I reviewed, in preparing for testimony, that there were at least three studies. One of the most recent Air Force studies is six years old, has fundamentally different assumptions, like two major combat operations. The Whitney Bradley Brown study has some different assumptions. The most recent is the Joint Air Dominance study that has one major combat operation and endorses the 183 airplanes.

Mr. BISHOP. So has the Whitney Bradley Brown study been released?

Secretary YOUNG. I don't know. I will have to get that for the record, sir.

Mr. BISHOP. I would appreciate that.

[The information referred to can be found in the Appendix on page 63.]

Mr. ABERCROMBIE. Would you yield a moment, Mr. Bishop?

Mr. BISHOP. Maybe. Are you going to be kind?

Mr. ABERCROMBIE. No.

On the Whitney Bradley Brown study, Mr. Sullivan will bring us up to date.

Mr. SULLIVAN. Mr. Bishop, staff has a copy of the Whitney Bradley Brown study if you need it.

Secretary YOUNG. Thank you for clarifying that.

Mr. BISHOP. Thank you. I appreciate that because I did not know its status or if it is classified, but the numbers are significantly different than what the gentleman has given as his recommendation; is that not correct?

Mr. ABERCROMBIE. I can't answer.

Mr. BISHOP. I can. You might as well say "yeah."

Mr. ABERCROMBIE. Well, you are asking me, and I can't answer with authority. But I understand what the point is. And it is available, so we can clarify what that comes down to.

I can say, Mr. Young, that in all my exchanges with Mr. Bishop, I would never want to bet that he was going to be wrong when he makes an assertion. So I will take your word for it.

Mr. BISHOP. Mr. Chairman, you just don't know me well enough. That is the only problem.

Mr. Young, I appreciate the opportunity of asking a couple of questions here, and I appreciate that. I will just simply close and

yield back the rest of my time by saying 4 is not 20, and I think the intent of Congress is pretty clear.

Thank you, Mr. Chairman.

Mr. ABERCROMBIE. Thank you.

Mr. Reyes is next.

Mr. REYES. Thank you, Mr. Chairman. I apologize for being late, but I am coming from another hearing that I was chairing.

Mr. Young, one of the, I guess—and if I go over the same area, I apologize. But we asked the Air Force to provide us the cost estimate for a bridge. And I just heard my colleague on the other side talk about “4 is not 20.” And so I don’t want to belabor that, other than to say that we are talking about very important issues to our national security. And when we authorized and appropriated the \$140 million per aircraft that we were told, that was the cost in order to make that bridge happen.

What is the answer? And I wasn’t here, so I apologize, but how do you answer us on that one issue in the context of the decisions that were made?

Secretary YOUNG. Well, I want to make sure you understand that the 140 million was actually assuming all 20 airplanes, the advance procurement, was under contract and it was a number that said if in March you stopped—and that was the termination liability, that is what the government would have to pay. It was not a number that was based on an analysis of the items and the suppliers I must keep working in order to ensure I have the opportunity to buy F-22s.

I have sought—because the bill to buy 20 additional F-22s is on the order of \$3 billion—that is money that is not presently in the budget, and I have seen the construction of the budget; and I would tell you, the Air Force will—it will lead to some difficult choices in the Air Force to buy those airplanes. And I want to be sure and respect that the Congress may make those.

The Congress in the end will deliberate the 2010 budget, but in leaving decision space for the next Administration, and trying not to charge the taxpayer more money and trying to comply with the congressional intent, I sought to construct a strategy that would do 20 airplanes. That is 4 plus 16.

So we are on a path to obligate advance procurement for 4 airplanes, which is a solid initiation on the bridge on F-22, and then an option that can be executed in January for the remaining 16; and it lets the next Administration make that decision to execute that option, hopefully, and buy the planes if they choose to, with no penalty to the taxpayer, or choose not to buy the airplanes and engage the Congress in that debate about their view of F-22.

And so my goal, as directed by Secretary Gates, is to create a bridge and let the next Administration have the full ability to make a decision.

Mr. REYES. So since I wasn’t here, Mr. Chairman, so I haven’t been here when we authorized and appropriated for 20 aircraft at 140 million, we were not serious about that, or we weren’t taken seriously about that?

Mr. ABERCROMBIE. You are looking in the wrong direction, Mr. Reyes.

Mr. BISHOP. Well, I just want to make sure I understand it.

Mr. ABERCROMBIE. Well, that is the contention.

Mr. REYES. Mr. Chairman, I would like to yield to my friend, Mr. Marshall, the remainder of my time.

Mr. ABERCROMBIE. Sure.

Mr. MARSHALL. Thank you, Mr. Reyes.

Mr. Van Buren, I would like to follow up with you the line of questioning that I had for Secretary Young.

Okay. So the plan at the moment is to take 50 and obligate that, with the possibility of obligating the balance, 90. And Secretary Young suggested that the new Administration probably ought to make that decision by January 21, whether to obligate the additional 90; and if the decision was made by January 21 to do so, there would be no significant additional cost.

Do you agree with that?

Mr. VAN BUREN. There will be a cost above the 143 multiyear cost, no question. What I am uncomfortable in doing right now is giving you an exact cost above the multiyear procurement.

Mr. MARSHALL. Is it multiples?

Secretary YOUNG. To be clear, there will be a cost above the multiyear no matter what we do. Is that fair?

Mr. VAN BUREN. Yes.

Mr. MARSHALL. Well, I am trying to figure out—you would help us greatly if you would just go—Mr. Van Buren, why don't you try and take a shot at this, if you would simply tell us: if the 140 were obligated now, versus 50 now; 90, January 21, or 50 now; nothing until March 1, and then we scramble and try and do something March 1.

And I suppose actually we should be thinking about the legislative process here a little bit more. And the fact of the matter is, if the new Administration says we are not interested in purchasing this next lot of F-22s, we could say we disagree. And that would take some time, and so there would be a significant additional delay during which period of time probably Members of Congress would be wondering whether or not it was so wise to stick in the 140 bridge and whether we didn't make a mistake by limiting the 523 at all—just do it. And then we will argue with the next Administration whether or not we should be buying additional F-22s.

But that is for another day. For right now we are just trying to figure out this 140.

So can you tell us roughly what happens if we obligate the 140 now, versus just 50 and then 90, January 21; or we postpone the additional 90 until March 1?

Mr. VAN BUREN. Well, I think as you change the dates by which you obligate the money, you start to run into greater risk with regard to subcontractor production lines that might be gapped to some degree. You run the risk that it is not as efficient as if, let's say, you were running a multiyear procurement or tailing in exactly in line with the previous procurement.

The order of magnitude of that is what I am comfortable in giving you an exact number now. We have a not-to-exceed, which is consistent with our previous numbers, which I just mentioned we just received. We haven't done a thorough analysis of that to look at the parts, look at the termination liability (TL) component of that. And so—you have spoken of some numbers earlier today. We

don't have those cast in concrete, but they are on the order of magnitude that you would look at at the 153.

Mr. MARSHALL. I didn't necessarily follow that. You said "not-to-exceed." You are comfortable enough—

Mr. VAN BUREN. Congressman, you asked the question if we proceeded with the turn-on of the 20 right now.

Mr. MARSHALL. Right.

Mr. VAN BUREN. And the best estimate I have is something on the order of that 153 million. That is the delta between the multiyear procurement and if we went out on a single-year procurement of 20 aircraft.

Mr. MARSHALL. Well, I am also asking the question because right now we are talking about no more than 20; we are not talking multiyear. And at the moment the question is simply whether it should be 140 obligated now or 50 obligated now. And so if it is only 50 obligated right now I am trying to figure out what happens on down the road, what additional costs. The Secretary is raising his hand.

Secretary YOUNG. At some peril to myself, but because we ought to answer your question, there is an industry piece of paper that says if we do 50 now, 90 in January, and the President makes a decision in March, that strategy could cost \$200 million more.

Two weeks ago, when I discussed this with industry, it was 50, 90 in March, would yield probably no significant change in the price. If we did 50 now and nothing until March, that would be \$200 million.

The numbers keep moving. People are doing legitimate analysis of a complex program. The best indicator we can give you is the "not-to-exceed the offer."

When I tried to construct this 4 plus 16 so the next Administration had complete decision space, I was told buying 4 plus 16 advance procurement could cost more than buying 20 of advance procurement. The Air Force today received a not-to-exceed estimate which is a contractually useful number that says, indeed, the advanced procurement obligated as 4 plus 16 will cost no more than we thought it would cost for 20.*

That is excellent news. It reflects good cooperation between industry and the government to try to hold the prices for the taxpayer.

Mr. MARSHALL. Does that not-to-exceed contemplate that the additional 90 will be forthcoming by January 21?

Mr. VAN BUREN. The not-to-exceed for the four aircraft is valid until 26 November. The not-to-exceed for 16 aircraft and 20 aircraft is valid until 16 March 2009.

Mr. MARSHALL. Well, geez, it would have been helpful if you guys had just told us that a little while ago.

But thank you, gentlemen.

Mr. ABERCROMBIE. Thank you very much.

Mr. Hayes, you are next. May I just preface your inquiry by extending to you my aloha for your friendship and your service on this committee. And I say friendship first, because that is some-

*The description of the not-to-exceed estimate provided by the witness is contrary to the not-to-exceed estimate provided to the Air Force, as shown in the Appendix on page 59, paragraph 8.

thing that you extended to every Member of this House, and most certainly to me. And I want to express to you that I hope we will be seeing you in the future.

Mr. HAYES. Neil, thank you very much. I reflect the aloha as well.

I remember our first encounter some 10 years ago. You were sitting about right here, and we were talking about Hawaii arising out of Kosovo somehow or another. But, anyhow, you have been a wonderful friend, both to me and to the military.

Mr. Young, you have gotten a number of questions, and I think if there was any lack of clarity, if Congress wanted to spend the money buying the aircraft that the Air Force is going to stay in the fighter business and be anywhere near competitive with others around the world, we certainly badly need these. And a few tankers to go with them would be nice.

On the \$50 million question, how—when you talk to industry; and I think that is a good thing—how does 50 million, I mean, how many joints and grease fittings do they cover with 50 million? What is the data to keep them going at 50 million until January 21? How does that work?

Secretary YOUNG. Well, as you know, the government was at some risk here anyway because normal order, as done on the previous F-22s, would be to provide full, advance procurement (AP) early in the year, which would have been the full 523. We were—you know, the money was parsed, and so at least I read into the intent of Congress, and this may be important, a limitation to 140 until the President could make a certification. That parsing of the AP, in and of itself, gives industry at least the opportunity to ask for higher prices associated with that.

In reading the intent of the Congress and trying to be careful with taxpayer dollars, we talked with industry about a construct that would let us obligate the AP as 4 plus 16, and four airplanes of AP as a fractional basis of 140 is less than \$50 million. But we wanted to make sure there were no restraints and no restrictions and no underfunding of the minimum supplier activities necessary for the lines to continue and the four airplanes to be in process with advance procurement, again, with the idea of having a line that is healthy. But it is extremely dependent on the next Administration to make a decision about continuing F-22 production. So the 50 was a fractional basis with margin, if you will, of the 140 for four airplanes.

Mr. HAYES. So did they give you any idea of—the manufacturers, of what the \$50 million would be used to do and how it would—and at the 50 million level, rather than 523, it would really trickle down to the supply chain. What damage would be done to the supply chain?

Secretary YOUNG. We are certainly trying not to have damage done to the supply chain, and there is actually one detailed chart we could give you for the record that identifies the specific suppliers who will build parts, at what periods of time. And many of it, I am sure you are well aware, are some specialty metals and castings that have to be done.

So the Air Force has a very good-quality understanding of which suppliers are critical to the front end of building additional F-22s;

and we understand the funding addresses those suppliers with a need to make another funding decision, preferably in January.

One issue has emerged here recently, and that is on some particular titanium ingot. And we are going to relook at that issue and make sure we understand the health of those suppliers to support this program, because there is a possibility that the work they would do could be used in other aircraft programs, including JSFs, if F-22 didn't continue; and obviously continuing with them would make sure F-22 could continue.

Mr. HAYES. Mr. Van Buren, do you have any different view of the health of the industry and the supply chain based on your position with the Air Force?

I mean, JSF and F-22 are two entirely different airplanes.

Mr. VAN BUREN. Well, we have indication that there may be half a dozen suppliers out there for those specialty metals that Mr. Young mentioned that may be at risk here. And I think that is what we are trying to do in work—our response to the ADM is to identify those specific folks and what is in the best interest of the warfighter and the taxpayer for continuing that line, to leave that option open.

Mr. HAYES. Well, with national security in mind, go back and get all the money, spend it, get the planes and give me some tankers to fuel them.

Thank you, Mr. Chairman.

Mr. ABERCROMBIE. Thank you, Mr. Hayes.

I am going to just ask a couple of questions, and then we will go to Mr. Gingrey to close out, unless someone wants another round besides Mr. Gingrey.

Okay, just for clarification's sake—it may help us as Mr. Gingrey follows up and concludes—I just want to make sure that I understand and for the record.

To which analysis were you referring when you made the decision about the four additional F-22s? I mean, why it wasn't three or why wasn't it five? What was the rationale?

I think you have gone over this in effect, but I have lost my way. Why were you deciding on the 4 plus 16? Why isn't it five plus what, or et cetera?

Secretary YOUNG. Secretary Gates had indicated in testimony that he intended to request four F-22s in a supplemental, based on a connection to combat losses for airplanes that we have indeed lost. So that was the starting point for the discussion. That discussion continued into my discussion with industry about whether four and the timing would be valid with respect to—

Mr. ABERCROMBIE. Well, with respect to Mr. Sestak's observation and so on—I don't necessarily want to repeat that, but what I am driving at is that you mean it would have been five if there had been five losses or six or one?

What if it had been no losses? There wouldn't have been any proposal for anything, and we would have just gone for the 20?

The reason I am asking the question is, I think that Mr. Marshall has caused me to reflect between your answers and Mr. Van Buren's answers to Mr. Marshall. I am trying to figure out how are we even at four then? Why are we doing anything?

Secretary YOUNG. Well, I think you have rightly, and—

Mr. ABERCROMBIE. Fairly?

Secretary YOUNG. You have rightly and fairly provided advance procurement that is needed so that that line is bridged to the next Administration. And I must be honest with you, that I did read some intent in the Congress' work and legislation that said you did want the next Administration to be able to make this decision. You restricted a portion of the 523 until they can make the decision. And all my decisions are, I think, trying to be consistent with that.

Mr. ABERCROMBIE. But I am not—I understand that and I accept that. I mean, I may not accept that I agree with it, but I accept that that is what your reasoning is.

What I am trying to get at, in light of the discussion that both of you just had with Mr. Marshall, on both occasions that he engaged with you, I am trying to figure out why we are doing anything at all, then, over and above what the intent of Congress might or might not have been in your estimation.

Secretary YOUNG. So you have provided funds to bridge the line. That gives the next Administration a chance. We have connected it to the fact that Secretary Gates and the Department believe we legitimately should buy four additional airplanes to bridge, or for the fact that we have combat losses. And so I think that is the essential element that you have provided us the opportunity to do.

Mr. ABERCROMBIE. Okay, I understand.

We are right back to what Mr. Reyes, then, most recently put forward. We have a basic confrontation here as to what the intent is and whether or not you are going to fulfill that intent and what your interpretation is of what is required of you that fulfills that intent. Because otherwise it would be zero; if your reasoning prevails today, you wouldn't put anything in here at all.

Secretary YOUNG. I don't think, sir, it would be zero. But trying to balance these multiple, competing interests—some of which I kind of every day feel like come directly from you, to be honest—the one thing I can do, definitely—

Mr. ABERCROMBIE. They do.

Secretary YOUNG [continuing]. I can honestly do is, I can spend advance procurement for four airplanes because this Administration intends to at least propose that those four airplanes be bought.

Mr. ABERCROMBIE. I don't really think there is a competing interest here because, as I read the Constitution it is not a competing interest. The Congress tells you what to do.

I grant you that there has been this idea of a unitary executive and so on, all of that, the warm results of that we have noticed ever since Watergate.

Well then, just one more: Have you had discussions with the next Administration then—this also comes out as a conversation that has taken place to this point. Have you then had discussions with representatives of the next Administration that would lead you to think that they could make a decision by January 21?

Secretary YOUNG. I have not had those discussions yet.

Mr. ABERCROMBIE. Are you in discussion with the next Administration?

Secretary YOUNG. Those discussions are starting right now.

Mr. ABERCROMBIE. Okay. Maybe we ought to get in touch with them, too, to let them know what we think, because I certainly

hope the Obama Administration is going to understand that they don't operate as a unitary executive either. And I am not talking about the President-elect, but people who, you know, represent him at this stage, because I think Mr. Marshall has a very strong thumb on this issue in the sense of—and I think that you have made clear today that these are very critical decision-making dates, January 21 and March 1. Again, for good or ill, that is what section 134 says. And whether it was a good idea to write it that way or do it that way, that is what is there until it is modified or altered.

So I guess my point is that if you are having discussions with them, I think an emphasis to them that there are serious implications in the January 21st date and the March 1st date that need to really go forward. Not that I don't think that you would, but I want it on the record that this hearing today has made it clear to me that this has serious, down-the-line fiscal and policy implications, for sure—

Secretary YOUNG. Yes, sir.

Mr. ABERCROMBIE [continuing]. Over and above what agreement or disagreement we might have at this point.

Well, absent anyone else requesting time, then I think I will go to Mr. GINGREY; and I think that will be our concluding exchange today.

Dr. GINGREY. Mr. Chairman, thank you. And I want to point out that this is my first round. Of course, Mr. Saxton was kind enough to yield to me earlier.

Mr. ABERCROMBIE. Yes, I should have said that. I am sorry.

Dr. GINGREY. I don't want Secretary Young to think that I am trying to get him with a double whammy here.

But of course I want to point out, Secretary Young, you and I both are graduates of the Georgia Institute of Technology. We are both co-op students. You went on, of course, to Stanford and got a master's degree in aeronautical and astronautical engineering. I went to the Medical College of Georgia and became a medical doctor. So we do have a lot in common.

Mr. ABERCROMBIE. He is about to operate on you, right now.

Dr. GINGREY. And I certainly am sharpening the scalpel, as the chairman says.

Let me say this, though. I know when I was at Georgia Tech I had very little opportunity to take any economic or business courses. Now, in the last couple of months up here we have had to, by fire, learn a lot about the economy, a lot of terms and that sort of thing. But I doubt if you had much time either to study a lot of economics.

But let's just say your plan that you recommended—and you and you alone, you suggested that to Under Secretary England; you worked with him in the Navy, and you are obviously close friends and professional associates. And this plan of—instead of spending the \$140 million, you said, we are going to spend—we are going to spend \$50 million; and it is going to save, has the potential of saving \$90 million.

Now, let's say you were presenting that to the taxpayer as, let's say, a derivative or a credit default swap or a collateralized debt obligation or a mortgage-backed security; and the taxpayer said, well, sir, with the green eyeshades, how much money am I going

to make if I purchase this financial product? And you say, well, you are going to make \$90 million. That's the upside potential; you are going to make \$90 million.

And John Q. Public says, well, what is the downside risk; how much could I lose? And you say, well, it could be, you could lose 200 million if this contract is not settled by mid-January, late January or early February of 2009. Or if goes late into March, you know, it could be \$400 million.

I think John Q. Public, taxpayer, Joe Sixpack would say to you, thanks, but no thanks.

And it seems to me—I mean, we have got bright people in this room, and they are in the industry; and I see some Air Force uniforms, and I know these people understand this issue. But I am trying to kind of simplify it, because we have got a lot of discussion here, back and forth. And to me, that is what it is all about, aside from the fact that, to me, you are flaunting the law, the language is clear, the language is clear; and you have heard that repeatedly.

Now, you took this action, and I do have a question in here, Secretary, if you just bear with me.

For several years the President's budget has not included any funds for the multiengine program, alternate engine for the Joint Strike Fighter, right? Am I correct on that, for several years?

Well, you don't have to answer because I know I am correct.

But Congress, each year, has voted to restore funding, and your office has obligated that restoration. In fact, in March 2008, your testimony before this committee on the Joint Strike Fighter alternate engine, you stated, "The Department will comply with section 213 of the John Warner National Defense Authorization Act of fiscal year 2008. We will ensure that in each fiscal year where funds are appropriated there is obligation and expenditure of sufficient amounts for continued development and procurement of two options for the Joint Strike Fighter Propulsion System, the engine. However, the Department continues to believe that the investment required to develop an alternate engine is more appropriately proposed for other Department priorities," end quote.

That is you, Mr. Young. So although you disagreed with the approach of Congress back then, you did act in accordance with the law, didn't you, and the congressional intent?

So here's the question, finally: So why, when it comes to section 134 of this year's Duncan Hunter National Defense Authorization Act, are you not following this same logic?

Secretary YOUNG. Can I offer a couple of comments?

I think, in selling the derivative investment idea, we should at least also talk to the taxpayer about what the military requirement is. And when Secretary England had a meeting with me and the Air Force and everyone to try to make a decision here about how to proceed on F-22 advance procurement, he said, does the Air Force want to buy F-22s or not? Do you need them and do you need them in the context of all your other competing priorities?

And the Air Force said, we can't answer that question. We are working to analyze that so we can offer an opinion to the next Administration. They could not offer that comment.

Dr. GINGREY. Reclaiming my time, Secretary Young, that is not what the Air Force testified to this committee.

Secretary YOUNG. I am telling you what the Air Force leadership, about two weeks ago, said to Secretary England to help inform him on making a decision here.

And then, with regard to the second question, I would just tell you that because I think we have constructed a package that has the potential—not acknowledging all of these industry estimates to not cost the taxpayer more money; and I am constantly looking at being careful with that—we are compliant in executing a 4 plus 16 strategy with section 134.

No one is ignoring the law, sir.

Dr. GINGREY. Mr. Chairman, I am going to make a concluding statement.

I think that I made my point here. The actions of Secretary Young—in my opinion and many members of this subcommittee, as expressed here today—we think these actions are counter to the law. They are counter to the intent of Congress and to the Air Force's stated requirement in regard to F-22A Raptor.

Secretary Young's approach will not, in fact, save the taxpayer one thin dime; and it could inadvertently—and I will give him the benefit of the doubt here—it could inadvertently preclude the procurement option for the next Administration. Driving this cost up might cause them not to purchase a Lot 10 F-22 Raptor. And I worry that this approach was, well, it will contribute to killing the program. And I hope, for the sake of our national security, that Secretary Young will very strongly consider reversing courses and comply with section 134.

And with that, Mr. Chairman, I yield back.

Mr. ABERCROMBIE. Thank you.

Mr. Marshall requested an opportunity just to follow up a moment or two, and then we will conclude.

Mr. MARSHALL. Thank you, Mr. Chairman. I apologize for taking a little bit more time on this.

Then not to exceed estimates that you got from industry, I assume industry is going to be interested in talking with whoever is signaled and identified in any way in the new Administration about this particular issue and the decision-making time frame within which the new Administration needs to act if it is going to taking advantage of these “not to exceed” estimates.

From your perspectives in the transition here, how will that occur if you are not going to rely on industry to let folks know? Will Air Force just make sure it gets done? Is that basically what is going to happen, the blue suits here, the people who are going to be around whether they are civilian or not, are just going to make sure with the new Administration, good gosh, something needs to be done by January 21? Does this committee need to do anything? Do we need to send a letter to the President-elect, that sort of thing? Could you give us advice?

Secretary YOUNG. I would let Dave Van Buren speak to this, but for us, Secretary Gates has given us strict orders to have transition documents, and I personally have an extended memo that says—you know, because this is just one of many decisions that have to be made. And so I intend in the very near term to talk to them and communicate those issues, Secretary Gates' direction to us. The President's direction is to make this transition go smoothly.

Some of them are major issues like war, but acquisition has its own set of issues as we have talked about today, and I will make absolutely certain in every discussion with the transition team that this, along with several other issues, must receive their attention immediately, or certainly within the first six months. And that is how I have structured my paper—

Mr. MARSHALL. Well, the problem with the first six months is obvious, what we are talking about here timewise.

Secretary YOUNG. I am sorry. What I have laid out is decisions that need to be made in acquisition in the zero-to-six-month period and therefore require an investment of their time now. That range includes things other than F-22, and I am sure the Air Force is doing the same. I will give Dave a chance to comment.

Mr. VAN BUREN. We also have a long list of prioritized-action items that we are to handle with the transition team, and this certainly is the most immediate of them.

Mr. MARSHALL. Thank you, Mr. Chairman.

Mr. ABERCROMBIE. In response to that, I can assure you that as a result of today, we are going to make sure that transition team knows that they better check in here, too, and not because you won't make the best case that you can about all the things that you just mentioned, but that they need to make sure that they triangulate here between the transition team and the Pentagon and the other leg of that triangle, or the other end of that triangle is over here, so that we can avoid this kind of thing as much as possible in the future.

By the way, I do want to say that I fully recognize that this long language was not necessarily language that you put forward. This was language that was developed in a conference committee between the Senate and the House after all, and it is not necessarily the language that I would have written had I had my way or if Mr. Skelton had had his way out of the conference. We did not. And perhaps that should serve as a lesson to us about making sure when we come out with a conference bill that we understand that there is going to be some difficulties with language, and perhaps discussion with the Pentagon in the future immediately upon the conclusion of the defense bill might be in order, too, so that we don't get a cross purposes two, three months or a year down the line as a result of negotiations that we have to go through. It may not be as explicitly clear to the Pentagon what we would like to have happen, or we end up with people of good will and good faith coming to different conclusions as to what was required.

In any event, I want to thank you both for your service. This is the last hearing that the 110th Congress will have and that we will have in this subcommittee, and I want to reiterate to you, Mr. Young, my personal regards and gratitude to you for your service. No one, to my knowledge, in government, let alone in the Pentagon, devotes as much of his waking hours to trying to do things on behalf of the interests of the Nation, and in this instance, even more particularly, the national security interests, than you. And I want to acknowledge that publicly and extend to you my fond aloha for all that you have helped us with in the 110th Congress.

Mr. Van Buren, that is not a slight to you. We just haven't had the same relationship over the past year.

One last thing on that. I think the standard that you have set in terms of how to go about evaluating things even if we don't always agree to what that evaluation is, I think, is something that the next Administration could well emulate.

Secretary YOUNG. Mr. Chairman, thank you. It is extremely kind, and I appreciate that.

Mr. ABERCROMBIE. You are more than welcome.

With that, then, I will take my father's gavel and bring this hearing to an end.

[Whereupon, at 2:25 p.m., the subcommittee was adjourned.]

A P P E N D I X

NOVEMBER 19, 2008

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

NOVEMBER 19, 2008

**RANKING MEMBER SAXTON
OPENING STATEMENT**

*Air/Land Subcommittee
Hearing on the F-22 Program*

November 19, 2008

Thank you, Mr. Chairman, for holding this hearing.

Although I don't think any of us thought another hearing on the F-22 would be required when we finished our work on the 2009 defense bill, it's nice to be back amongst my friends and colleagues on this subcommittee.

Mr. Chairman, I simply want to start by stating for the record that I share your concern about the manner in which the Department has elected to implement Section 134 of the 2009 defense authorization bill.

Secretary Young, welcome back to the committee. I look forward to your testimony today and I hope you will be able to shed some light on the reasoning behind your

decision. While I acknowledge that the statute could be interpreted to provide you with the option of awarding less than the amount we authorized; in my view, the Congressional intent is clear. By authorizing \$523 million - the full amount required for advanced procurement for 20 F-22s - we intended for you to do just that. The only stipulation we included was that you not obligate more than \$140 million before the new Administration reviews the program and makes a decision on the path forward.

It makes me wonder what the Department would have done if we had not included a restriction or stipulation on obligation of the funds. If we had simply authorized \$523 million for advanced procurement for F-22s - just like the Congress does every year for hundreds of other procurement programs - would the Department have elected to use only \$50 million? Would there be a question about our intent? Would there be a question about the amount to be obligated?

I hope you will be able to explain to us how you determined that \$50 million would be adequate to keep the long-lead suppliers under contract and in production until the new Administration makes a decision. I'm very interested in understanding the assumptions that went in to your decision and I'd like to see the data to support your position. This is a critical point that we must understand, as I fear your decision to withhold the \$90 million may already be impacting suppliers and driving up long-term costs.

Thank you, Mr. Chairman

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HOUSE COMMITTEE
ON ARMED SERVICES**

TESTIMONY OF

JOHN J. YOUNG

UNDER SECRETARY OF DEFENSE

(ACQUISITION, TECHNOLOGY & LOGISTICS)

BEFORE THE UNITED STATES HOUSE

COMMITTEE ON ARMED SERVICES

AIR AND LAND FORCES SUBCOMMITTEE

NOVEMBER 19, 2008

Mr. Chairmen and distinguished members of the Subcommittee, I welcome the chance to appear before you today to discuss the F-22A Raptor. My testimony today will provide background and rationale for the Department's decision on obligation of FY 2009 authorized and appropriated F-22A advance procurement funds. Specifically, I will address the Department's intent to extend production, minimize taxpayer exposure to financial risk, and provide the incoming administration the flexibility to make a decision on continued F-22A production beyond the Department of Defense program of record.

F-22A FY 2009 Advance Procurement

As you are aware, the FY 2009 President's Budget did not contain Advance Procurement funds for a Lot 10 buy of F-22A aircraft. The FY 2009 President's Budget was consistent with the Department's stated position that the current program of record of 183 F-22A aircraft are adequate to meet the Department's tactical aircraft force structure requirements. The current F-22A aircraft program of record, combined with a larger force of F-35 Joint Strike Fighter aircraft, will provide a robust and right-sized 5th generation strike fighter inventory.

The FY 2009 DoD Authorization and Appropriations Acts provided \$523 million for Advanced Procurement for F-22A aircraft. Section 134 of the FY2009 National Defense Authorization Act directed that not more than \$140 million of

the F-22A Advanced Procurement funds were authorized for obligation until the President certified to the Defense Committees on the national interest of continued F-22A production or termination. The certification is due to the Committees no earlier than January 21, 2009, and no later than March 1, 2009. The Advanced Procurement funding, as well as the restrictions on the authorization of those funds, is in line with the Department's intent to provide enough flexibility for the next Administration to make a long-term decision regarding continued F-22A production.

F-22A Lot 10 Acquisition Strategy

On November 10, 2008, I signed an Acquisition Decision Memorandum (ADM) that directed the Air Force to begin Lot 10 procurement for four (4) F-22A aircraft. The ADM allowed the Air Force to obligate up to \$50 million of Advanced Procurement funds to purchase long lead items for four (4) F-22A aircraft. The ADM also allowed the Air Force to negotiate a priced Advanced Procurement option for the long lead items for 16 additional F-22A aircraft. Further, the ADM directed the Air Force to submit a revised Lot 10 Acquisition Strategy within 30 days for my approval and to provide certification recommendations pursuant to section 134 of the FY 2009 National Defense Authorizations Act, referenced above.

This approach provides an adequate bridge until at least January, 2009, without imposing significant additional costs on the taxpayer for any future course of action. First, it is inappropriate to spend an additional \$90 million of Advance Procurement for 16 aircraft that the Nation may not purchase, particularly when that decision can be deferred at limited cost and risk. Second, the taxpayer will not pay significant additional costs for additional F-22A aircraft if the balance of the \$140 million is obligated in January, 2009. Finally, if the decision on obligating additional F-22A Advanced Procurement funds is deferred until March, 2009, the Department of Defense still only faces estimated additional costs on the order of amounts Congress has permitted DoD to obligate.

My objective with the ADM is, to the maximum extent possible, comply with Congressional direction, execute an acquisition strategy that is consistent with the Department's stated position, and minimize the financial risk to the Department and ultimately, the country. The ADM represents a prudent approach that preserves F-22A options with a conscious effort to carefully use every single taxpayer dollar. The ADM also reflects a DoD strategy which implements Secretary Gates' commitment to allow the next Administration to reconsider the current decisions on the F-22A production program.

F-22A Budget Factors

In addition to the advance procurement issue, the question of full funding for a follow-on Lot 10 is pertinent to this discussion. Consistent with the current Department of Defense position on F-22A production, there is no funding in the current FY 2010 budget. Naturally, the F-22A program status may change when the incoming Administration reviews this issue, provides the certification required by section 134, and submits the FY 2010 President's Budget. However, the lack of approximately \$2.5 billion to fully fund additional F-22A aircraft in FY 2010 amplifies the need for prudence and restraint in committing Advance Procurement funds for additional F-22A parts.

Consistent with Secretary Gates' decision to bridge F-22A production for the next Administration, the Department intends to request four (4) F-22A aircraft in the FY 2009 GWOT Supplemental request. This approach was attempted in the initial FY 2009 Bridge Supplemental request; however, the F-22A aircraft were removed to allow for more urgent Department priorities to be included. Even if the four (4) F-22A aircraft are approved via supplemental request, approximately \$2.5 billion would be required in FY 2010 to fully fund the remaining 16 F-22A aircraft.

In addition to finding funding for additional aircraft, the F-22A program requires funding to continue their modernization plan, resource the operations and

maintenance accounts required to achieve reliability goals, and standup the required depot and infrastructure to support the programmed inventory. The Air Force faced considerable pressures in submitting a balanced budget to the Department for FY 2010. The addition of 20 F-22A aircraft at a cost of more than \$3B would clearly add to that challenge.

The Department's analysis supports the current F-22A program of record. The analysis determined that the appropriate number of F-22A aircraft combined with a larger number of F-35 aircraft provided the Nation with a 5th generation capability necessary to handle the most stressing of wartime scenarios. Inherent in that analysis is the ability to procure the correct mix of these very capable aircraft. Continued procurement of F-22A aircraft could, for example, jeopardize the Department's ability to procure the F-35 in the quantities required to maintain affordability and deliver the required capability to the Services as soon as possible. The Department believes that spending more money than is required to provide the warfighters the correct mix of capability and quantity of aircraft is not the best use of tax dollars. The Department faces many funding challenges and an investment that merely adds redundancy, at a high cost, to an already robust force risks the ability to meet the Department's needs in other equally important mission areas.

I again thank the Subcommittee for their time in allowing me to present the Department's positions on this important program.

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HOUSE ARMED SERVICES COMMITTEE
AIR AND LAND FORCES SUBCOMMITTEE
U.S. HOUSE OF REPRESENTATIVES

TESTIMONY OF

DAVID M. VAN BUREN

**PRINCIPAL DEPUTY, ASSISTANT SECRETARY OF THE AIR FORCE
(ACQUISITION AND MANAGEMENT)**

**BEFORE THE UNITED STATES HOUSE
COMMITTEE ON ARMED SERVICES
AIR AND LAND FORCES SUBCOMMITTEE**

NOVEMBER 19, 2008

NOT FOR PUBLICATION UNTIL RELEASED BY THE
HOUSE ARMED SERVICES COMMITTEE
AIR AND LAND FORCES SUBCOMMITTEE
U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman and distinguished members of the committee, thank you for the opportunity to appear before you today to discuss F-22A future procurement. As you know, fifth generation fighters like the F-22A and the F-35 are key elements of our Nation's defense and deterrence. Both the F-22 and F-35 represent the latest generation of fighter aircraft. We need both aircraft to maintain the margin of dominance upon which we have come to depend. It is this margin that grants our air and ground forces the freedom to maneuver and to attack. The F-22 and F-35 each possess unique complementary and essential capabilities that together provide the synergistic effects required to maintain the margin of superiority across the full spectrum of conflict.

The F-22A has established a world-class production program. Lot 6 deliveries were completed ahead of schedule, at a rate of about two per month. Additionally, deliveries of Lot 7 Raptors begin this month, the first lot of the three-year multi-year procurement contract we awarded in July 2007. When the plant delivers the last aircraft of Lot 9 in December 2011, we will have completed the current program of record of 183 Raptors.

The Air Force greatly appreciates congressional support and the SECDEF's commitment to keep the F-22A production line viable until March 2009 to allow the next President to decide if additional F-22As are in the Nation's interest. To meet this aim, the Air Force is moving forward with a Lot 10 of F-22A aircraft. Per OSD direction, the program has commenced contract actions for advance procurement of long lead parts and

materials for four (4) aircraft with the option for advance procurement for an additional sixteen (16) Raptors. We believe this strategy meets the goal of “setting the table” until the new administration makes a decision concerning the future of the F-22A program.

Based on the direction in the 10 November 2008 Acquisition Decision Memorandum (ADM), the program released the aircraft and engine Request for Proposals (RFPs) on 17 Nov and plans to award undefinitized contract actions (UCA) on 26 Nov. The solicitations will be based on a Not-to-Exceed (NTE) for advance procurement for four (4) aircraft followed by a request for firm-fixed-price proposals following the March 2009 Presidential certification. In addition, the solicitations also included requests for NTE options for advanced procurement of sixteen (16) additional aircraft, also with delivery in calendar year 2012.

Full funding for Lot 10 must be included in the fiscal year 2010 budget should the next administration’s certification, required 1 March 2009 by the Fiscal Year 2009 National Defense Authorization Act, support continued production.

DOCUMENTS SUBMITTED FOR THE RECORD

NOVEMBER 19, 2008

DOGFIGHT OVER F-22 REQUIREMENT REVEALS DoD

SCHISMS: The battle over how many F-22 Raptors the U.S. Air Force requires is revealing some nasty infighting as the White House administration change nears. The Defense Secretary staff has told Air Force planners not to talk to congressional staffers and to work only through the offices of Deputy Secretary of Defense Gordon England and acquisition chief John Young. Insiders on Capitol Hill contend that the Defense Department has been and is continuing to withhold F-22 funds - in defiance of the law and the intent of Congress - in an attempt to punish the Air Force. England is still angry about the service's success in getting Congress to approve long-lead funding for 20 more aircraft, which would bring the service's total to 203 stealthy fighters. However, the Office of the Secretary of Defense has released funds for only four aircraft, which brought howls from aerospace analysts that it is too few aircraft to avoid a shutdown of production between administrations. The U.S. Air Force's new chief of staff, Gen. Norton Schwartz, is soon supposed to tell the chairman of the Senate Armed Services Committee, Carl Levin (D-MI), how many F-22s the service needs beyond the 183 that are already in the budget. Schwartz's budgeters and planners are expected to recommend a force of 250-275, a cut of more than 100 aircraft from the service's current requirement of 381. Young points out

that there is no money in the Air Force's budget plans for fiscal 2010 for F-22s. Neither Congress nor the defense secretary want to keep funding F-22 and C-17 production through supplemental defense budgets. "John is stuck taking direction from England, which I think he agrees with in this case, unlike with the alternative engine for the F-35 [which England attempted to kill]," says a Washington-based official with insight into the affray between the Air Force, Congress and senior Pentagon civilians. "Plus John has people around him who have their own agenda, or are not competent. They had John believing that the numbers being used by Lockheed and the Air Force late last week were from a Rand study on F-22 that has nothing to do with the current circumstances." A new study from the Center for Strategic and International Studies - whose CEO, John Hamre, has been mentioned as a possible candidate for President-elect Barack Obama's defense secretary - contends that war costs, manpower costs, underfunded operations and procurement crises in every service will force the new administration to reshape almost every aspect of current defense plans, programs and budgets. Obama will be faced with contracts worth \$70 billion (Armed Reconnaissance Helicopter, Transformational Satellite, the Combat Search and Rescue Helicopter and a new tanker aircraft) that would be added to current procurement and force modernization plans that total

more than \$183 billion in the fiscal 2009 defense budget, say Anthony Cordesman and Hans Kaeser, authors of "Defense Procurement by Paralysis." They predict the new president will have to make unpopular (especially with Congress) cuts.

"Reshaping an affordable and effective procurement program may well take at least the full term of the next president and involve major program cancellations and further hardship for the defense industry," the authors write. (*David A. Fulghum, Aerospace Daily & Defense Report – 11/18*)

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ERIN C. CONATON, STAFF DIRECTOR

October 31, 2008

The Honorable Robert M. Gates
 Secretary of Defense
 U.S. Department of Defense
 Washington, D.C. 20301-1000

Dear Secretary Gates:

We understand that Undersecretary Young recently disapproved an Air Force request to proceed with the obligation of \$140 million for F-22A advance procurement for 20 aircraft that would support the procurement of an additional lot of 20 F-22As in fiscal year 2010. Further, we understand from Secretary England that the Department may be considering including a request of advance procurement for four F-22s in the next supplemental request.

Appreciating the Department's current intent, we believe that to be consistent with statements made during the past year by various senior Department leaders and recent actions by the Department as exemplified in the Air Force Airborne tanker program and other acquisition programs, that the Department should provide the new administration with a viable option to either procure 20 additional F-22A aircraft or proceed with line shutdown. This is consistent with the views of Congress as a whole as reflected in section 134 and the funding included in this year's National Defense Authorization Act. A decision not to bridge the current contract by not obligating this \$140 million would effectively preclude the procurement option by dramatically increasing the cost of procurement because of line closure actions taken that would have to be reversed.

As you know, the Department did not include a budget request for fiscal year 2009 for either the advance procurement of an additional lot of F-22s or for F-22 line shutdown, and instead indicated its intention of leaving this decision to the next Administration. The obligation of \$140 million for the advance procurement of 20 F-22A aircraft is a prudent and necessary action to sustain F-22A production activities until March 15, 2009, preventing the expenditure of an estimated additional \$500 million to restart the F-22A production line. In the event the next Administration decides not to procure more F-22As, \$40 million of procurement items of the \$140 million in advance procurement could be used for the F-22A or F-35 programs.

Secretary Gates
October 31, 2008
Page 2

We expect the Department to approve the Air Force obligation of \$140 million for F-22A advance procurement consistent with the intent of section 134 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. These funds are immediately required to complete the necessary actions for a contract award by November 27th, 2008.

The obligation of \$140 million to sustain F-22A production until March 15, 2009, is a prudent decision for the Department and the American taxpayer. Please get back to us as soon as possible with your plans for complying with the law and intent of section 134 in order to sustain the option of procuring additional F-22As without incurring substantial production restart costs.

Very truly yours,



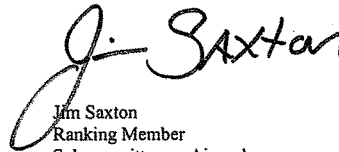
Ike Skelton
Chairman



Duncan Hunter
Ranking Member



Neil Abercrombie
Chairman
Subcommittee on Air and
Land Forces



Jim Saxton
Ranking Member
Subcommittee on Air and
Land Forces

IS/DH/NA/JS:js

Lockheed Martin Aeronautics Company
PO Box 748 Fort Worth, TX 76101



Revised Document No: T0-LTR-2008-000809-1

Date: 20 November 2008

KLR:nlg

Subject: Contract FA8611-09-C-2900 – F-22 Lot 10 Production Aircraft – Advance
Procurement – Funding / Termination Liability (TL) Requirements

To: Aeronautical Systems Center
478th AESW/PK
Building 553, 2725 C Street
Wright-Patterson Air Force Base, Ohio 45433-7424

Attention: 478th AESG/SYK / Mr. Nicholas Braun
478th AESG/SYK / Mr. James Ehret

Copy to: DCMC Lockheed Martin - Fort Worth

Attention: AJBB / Ms. Carolyn Franke

Reference: (a) Advanced Copy of ASC/478th AESW/PK Letter L-08-0612 dated
17 November 2008, Same Subject
(b) LM Aero Letter T0-LTR-2008-000809-0, dated 18 November 2008

Enclosure: (A) Revised Supporting Documentation for Lot 10 Advance Procurement Not-
to-Exceed (NTE)
(B) Revised Lot 10 AF 1539's
(C) Configuration Baseline Document for Lot 10
(D) Revised Draft H-XXX Tail Up Cost

1. In accordance with reference (a), Lockheed Martin Aeronautics Company (LM Aero) submitted the reference (b) submittal for Lot 10 Advance Procurement.
2. The following total as provided via Enclosure (A) represents the Lot 10 Advance Buy Funding / Termination Liability (TL) values for the months of November 2008 through September 2009. The revised monthly profile by team is provided via Enclosure (A).


	<u>Not-to-Exceed</u>
4 A/C	\$167.7M
16 A/C	\$341.3M
20 A/C	\$509.0M
Proposal Prep	\$17.0M

Revised Document No: T0-LTR-2008-000809-1

Page 2

3. Enclosure (B) contains the required AF 1539's for this effort. Enclosure (C) provides the Configuration Baseline Document for this effort that was the basis for the NTE pricing.
4. As directed in reference (a), LM Aero will not proceed with preparing the Firm proposal until PCO direction is received. However, this will put at risk the ability to award a fully funded contract by 31 October 2009.
5. Provided as Enclosure (D) is a revised draft clause for your review. This submittal is predicated on inclusion of a mutually agreeable Tail Up Clause in the Lot 10 Advance Buy contract which recognizes contractor entitlement to Tail Up costs. Provided as Enclosure (D) is a Draft Clause for your review.
6. In accordance with reference (a), LM Aero submitted the Representations and Certifications under separate cover.
7. The following Ground Rules apply to this estimate:
 - a. The NTE for 4 A/C is valid until 26 November 2008.
 - b. The NTE for 16 A/C is valid until 16 March 2009.
 - c. The NTE for 20 A/C is valid until 16 March 2009.
 - d. The subject proposal is based upon FPRA dated 30 June 2008.
8. LM Aero's estimate for the price of twenty (20) Lot 10 aircraft described in the reference (a) RFP will be significantly higher than the Lot 10 scenario for twenty (20) aircraft authorized in November 2008 with continuous production.
9. Additional funds will be required if Lot 10 is not definitized prior to 30 September 2009. The amount of the additional funds will be based on the yet to be determined definitization date.
10. The basic four (4) aircraft must be authorized before 26 November 2008 in order to exercise the option for sixteen (16) aircraft.
11. This submittal supersedes and replaces reference (b) in its entirety.
12. Questions regarding the above may be addressed to Mr. Benjamin J. Holt at (817) 777-2672 or the undersigned at (817) 777-2749. Pricing questions may be addressed to Mr. Don Kondrach at (817) 777-6928.

LOCKHEED MARTIN CORPORATION
Lockheed Martin Aeronautics Company


Kenda Riney, Director
F-22 Contracts Management

**WITNESS RESPONSES TO QUESTIONS ASKED DURING
THE HEARING**

NOVEMBER 19, 2008

RESPONSE TO QUESTION SUBMITTED BY MR. WILSON

Secretary YOUNG. If the next administration certifies by March 1, 2009 that it is in the Nation's best interest to terminate F-22 production, the Air Force estimates that, of the \$50M authorized by USD(AT&L) to be obligated for Advance Procurement of four (4) F-22 aircraft, \$22M of titanium material and electronic components could be transferred to F-22 sustainment and/or made available to F-35 production. [See page 14.]

RESPONSE TO QUESTION SUBMITTED BY MR. BISHOP

Secretary YOUNG. The Whitney, Bradley, Brown (WBB) study was released. The Department provided the House Armed Services Committee a copy of the WBB study in January 2008. [See page 23.]

RESPONSE TO QUESTION SUBMITTED BY MR. SESTAK

Secretary YOUNG. In Dec 2005, the Department restructured the F-22A program by replacing the last two lots (lot 7 of 29 aircraft and lot 8 of 27 aircraft for a total of 56 aircraft) with a three-year incrementally funded multiyear procurement alternative. This alternative added \$1.6B in FY07 to complete procurement of 60 aircraft (lots 7-9 of 20 aircraft per lot). Due to incremental funding requirements, the additional \$1.6B in FY07 was required to fully fund the MYP.

The additional \$1.6B did more than just buy 4 additional aircraft. It repaired many areas affected by the Department's reduction from 279 to 179 aircraft in 2004. It provided for the Economic Order Quantity procurement to support the multiyear and subassembly procurement of Lot 7 aircraft, as well as production support, logistics support, and diminishing manufacturing sources. Additionally, funds kept the 5th generation F-22 production line open an additional year, mitigated risk, and preserved the option to add additional production lots in the future. The average unit flyaway cost (UFC) of the 60 aircraft in the multiyear contract is \$142.6M. [See page 20.]

<u>Lot</u>	<u>UFC</u>	<u>Total Production Cost</u>
7-9 (60 aircraft)	\$142.6M	\$8.8B (Airframes & Engines).

QUESTIONS SUBMITTED BY MEMBERS POST HEARING

NOVEMBER 19, 2008

QUESTIONS SUBMITTED BY MR. ABERCROMBIE

Mr. ABERCROMBIE. Secretary Young, you have made a point of the amount needed to bring the F-22A to a common configuration. The subcommittee would be interested to view this in context with other aircraft programs. Please provide the RDT&E funds for each of the following programs, B-1, F-117, B-2, F-16 (all models and blocks), F-22A, and F-18 (all models and blocks):

1. Total RDT&E funds obligated through FY 08.
2. Total RDT&E funds obligated from IOC through FY 08, and
3. Total RDT&E funds programmed in the FY 09 FYDP.

Please provide copies of all acquisition decision memorandums issued for the F-22A in 2008.

[The information referred to is retained in the committee files and can be viewed upon request.]

Secretary YOUNG. As of November 30, 2008, the F/A-18 and EA-186 Program has provided RDT&E funding for the following models, which are captured in the F/A-18 Improvement Line included below:

F/A-18 Improvements (All Models & Blocks)

- 1) Total RDT&E, Navy funds obligated through FY 08: **\$10,482.8M**
- 2) Total RDT&E, Navy funds obligated from IOC to FY 08: There is no IOC associated with the F/A-18 improvements, because this Program upgrades various systems, software, avionics, etc. associated with the F/A-18 program. These upgrades allow for the program to respond effectively with emerging future threats
- 3) Total RDT&E, Navy funds programmed in FY 09 FYDP: **\$505.2M**

F/A-18 A/B/C/D

- 1) Total RDT&E, Navy funds obligated through FY 08: **\$6,746.3M**
- 2) Total RDT&E, Navy funds obligated from IOC to FY 08: **\$429.3M** (A/B IOC in 1983, C/D IOC in 1987)
- 3) Total RDT&E, Navy funds programmed in FY 09 FYDP: No RDT&E, Navy funds were programmed in FY 09 FYDP because A/B and C/D development have completed.

F/A-18E/F*

- 1) Total RDT&E, Navy funds obligated through FY 08: **\$6,804.1M**
- 2) Total RDT&E, Navy funds obligated from IOC to FY 08: **\$1.21M**, IOC in September 2001.
- 3) Total RDT&E, Navy funds programmed in FY 09 FYDP: No RDT&E, Navy funds were programmed in FY 09 FYDP because E/F development completed in FY 02.

**This data captures the F/A-18E aircraft development program only. This does not include component improvements such as: Active Electronically Scanned Array (AESA), Automatic Carrier Landing System (ACLS), Infrared Search and Track (IRST), Distributed Targeting (DTP/MSU) or Sensor Integration which are captured in F/A-18 Improvements line, above.*

EA-18G

- 1) Total RDT&E, Navy funds obligated through FY 08: **\$1,599.9M**
- 2) Total RDT&E, Navy funds obligated from IOC to FY 08: No RDT&E, Navy funds were programmed from IOC to FY 08 because IOC is not projected until September 2009.
- 3) Total RDT&E, Navy funds programmed in FY 09 FYDP: **\$232.7M**

B-1 IOC September 1986

- | | |
|--------------------------|---------------------|
| 1) RDT&E through FY 08: | \$ 6,340.20M |
| 2) RDT&E IOC thru FY 08: | \$ 2,676.82M |
| 3) RDT&E in FY 09 FYDP: | \$ 309.14M |

B-2 IOC April 1997

- | | |
|--------------------------|---------------------|
| 1) RDT&E through FY 08: | \$17,645.20M |
| 2) RDT&E IOC thru FY 08: | \$ 2,900.70M |

3) RDT&E in FY 09 FYDP:	\$ 962.85M
F-16 IOC October 1980	
1) RDT&E through FY 08:	\$ 5,716.73M
2) RDT&E IOC thru FY 08:	\$ 3,211.55M
3) RDT&E in FY 09 FYDP:	\$ 769.81M
F-22 IOC December 2005	
1) RDT&E through FY 08:	\$ 28,500M
2) RDT&E IOC thru FY 08:	\$ 1,500M
3) RDT&E in FY 09 FYDP:	\$ 2,365M
F-117 IOC October 1983**	
1) RDT&E 2000-2008:	\$ 89.3M
2) RDT&E in FY 09 FYDP:	0 M

NOTE: For comparison across the programs, all funding has been converted to base year 2008.

** The majority of RDT&E for F-117 was conducted under classified appropriations, which is not reflective in these values.

I provided you copies of all acquisition decision memorandums for the F-22A in 2008 in my January 15, 2009, letter to you.

Mr. ABERCROMBIE. The Air Force and the prime contractor estimated that the cost impact to the F-22 program of executing advance procurement in accordance with the guidance provided in your November 10, acquisition decision memorandum, was as much as \$500 million, if a decision is made to proceed with the additional 20 aircraft program by the new administration in March 2009, while you indicated that there was no additional costs. Please provide an explanation of why your estimates of the cost impact to the F-22 program varied so significantly from those provided by the Air Force and the prime contractor.

Secretary YOUNG. The Not-to-Exceed (NTE) cost estimates provided by the prime contractor detail price ceilings for the Advance Procurement funding required for the purchase of four aircraft, an option for 16 aircraft, and a total lot of 20 aircraft. These NTE costs are the prime contractor's best estimate at this time. The contractor's NTE estimates indicate that the purchase now of AP for four aircraft and subsequent exercise of an option for 16 will cost no more than a purchase of the full twenty aircraft lot today. The NTE estimates are valid until March 16, 2009, providing the new Administration adequate time to make its decision on future F-22A procurement.

Mr. ABERCROMBIE. Please provide a listing of the items, costs, and quantities for all items included in the \$140M cost estimate provided to Congress to fund advance procurement for 20 F-22s from November 2008 to March 15, 2009.

Mr. VAN BUREN. No specific itemized listing of parts was used for the \$140M AP funds required for F-22 AP through March 15, 2009. The cost was determined based on historical procurement data from Lots 1-9. Based on these actuals, the Air Force estimated that \$523M would be required to fully fund AP for Lot 10 of 20 aircraft. The Air Force then generated a combined cost and termination liability curve and estimated that \$140M of that \$523M total was required to continue AP through March 2009.

Mr. ABERCROMBIE. Please provide a listing of items, costs, and quantities for all items included in the November 26, 2008 contract with Lockheed for advance procurement for the F-22A.

Mr. VAN BUREN. The entire list of long-lead AP items and their associated quantities, lead-times, and unit costs for two scenarios: 1) four aircraft only: and 2) an option to procure 16 additional aircraft, are detailed in the Pratt & Whitney (18 November 2008) and Lockheed Martin (20 November 2008) Advance Procurement-Funding/Termination Liability Requirements submissions (commonly referred to as the "Not-to-Exceed" or NTE proposals) to the government. These NTEs identify all long-lead items to be procured through September 2009 based on full AP funding. The contractors are currently working with their suppliers to determine a prioritized list of long-lead items to be procured based on partial AP funding through 15 March 2009. The advance procurements are shown in the attachments for Lockheed Martin, Pratt & Whitney engines and Boeing through 31 Mar 09.

Prime	Vendor	PO Date (Actual as of 19 Dec)	PO Date (Anticipated before Mar 09)	PO Amount	Part Number	Part Name/Description	Titanium? (Y or N)	Leadtime (Months)	TL as of 31 Mar 09
PAW	MRC BEARINGS INC	In process	Jan-09	\$ 36,779	4317248	BEARING B ANLS 5.905X3.050X1.720 FLGD	N	29	\$ 14,845
PAW	MRC BEARINGS INC	In process	Jan-09	\$ 42,751	4316874	BEARING B ANLS 5.109X3.401X2.441 FLGD	N	29	\$ 17,265
PAW	BAKER HILL INDUSTRIES INC	In process	Jan-09	\$ 29,347	4318650-01	SHROUD SEGMENT COMPRESSOR STATOR INLET	Y	28	\$ 10,481
PAW	BAKER HILL INDUSTRIES INC	In process	Jan-09	\$ 26,678	4318650-02	SHROUD SEGMENT COMPRESSOR STATOR INLET	Y	28	\$ 9,537
PAW	BAKER HILL INDUSTRIES INC	In process	Jan-09	\$ 62,807	4321855-01	SHROUD SEGMENT COMPRESSOR STATOR STAGE	Y	28	\$ 22,452
PAW	BAKER HILL INDUSTRIES INC	In process	Jan-09	\$ 14,864	4321855-02	SHROUD SEGMENT COMPRESSOR STATOR STAGE	Y	28	\$ 5,313
PAW	BAKER HILL INDUSTRIES INC	In process	Jan-09	\$ 46,414	4321854-01	SHROUD SEGMENT COMPRESSOR STATOR STAGE	Y	28	\$ 16,591
PAW	BAKER HILL INDUSTRIES INC	In process	Jan-09	\$ 19,357	4321854-02	SHROUD SEGMENT COMPRESSOR STATOR STAGE	Y	28	\$ 6,923
PAW	BAKER HILL INDUSTRIES INC	In process	Jan-09	\$ 18,788	4321854-03	SHROUD SEGMENT COMPRESSOR STATOR STAGE	Y	28	\$ 6,716
PAW	HAMILTON SUNSTRAND CORP	In process	Jan-09	\$ 287,985	4331856	PUMP FUEL MAIN	N	26	\$ 102,950
PAW	VOI INC	In process	Jan-09	\$ 129,193	4316578	RING #5 BEARING SUPPORT	N	27	\$ 39,761
PAW	FAG AEROSPACE INC	In process	Jan-09	\$ 26,554	4316259	RING #4 BEARING INNER	N	27	\$ 9,172
PAW	UNISON ENGINE COMPONENTS	In process	Jan-09	\$ 450,251	4322292-01	NOZZLE ASSY OF AUGMENTOR RIGHT	Y	27	\$ 138,570
PAW	UNISON ENGINE COMPONENTS	In process	Jan-09	\$ 456,711	4322292-02	NOZZLE ASSY OF AUGMENTOR LEFT	Y	27	\$ 140,558
PAW	FAG AEROSPACE INC	In process	Jan-09	\$ 38,843	4304908	BEARING ROL CYL 100X150X33 FLGD #1	N	26	\$ 9,869
PAW	FAG AEROSPACE INC	In process	Jan-09	\$ 37,504	4319008	BEARING ROL CYL 115X164X30 FLGD #5	N	26	\$ 9,529
PAW	CAN 095	In process	Feb-09	\$ 148,779	964321921-01	SEMI FIN ALD CO LINER ASSY	N	25	\$ 29,149
PAW	BEACON INDUSTRIES INC	In process	Mar-09	\$ 68,607	4322016-01	RING ASSY OF #4 BEARING OUTER FLANGED	N	24	\$ 11,319

Pratt Whitney Proprietary

Prime	Vendor	PO Date (Actual as of 19 Dec)	PO Date (Anticipated before Mar 09)	Part Name/Description	Titanium? (Y or N)	Leadtime (months)	TL as of 15 Mar 09 (\$M)
Boeing	Wyman-Gordon	May-08		Fwd Boom Die Forgings	Y	45	
Boeing	Shultz	May-08		Sag 6 - Fwd Boom	Y	45	
Boeing	GKN - TJC	Sep-08		Aft Boom	Y	45	
Boeing	Pacific Contours/RTI		Jan-09	Upper Panels - Fwd Boom	Y	45	
Boeing	Wyman-Gordon		Jan-09	Side of Body	Y	35	
Boeing	Northstar	Oct-08		AMADS - Timken Bearings	N	42	
Total Boeing - 4 A/C and 16 A/C Aft Ti Protection							17.2
Lockheed	BAE	17-Dec-08		EW	N	40	
Lockheed	ATK	5-Dec-08		Pivot Shaft	N	39	
Lockheed	BFG	19-Dec-08		Landing Gear	N	42	
Lockheed	Harris	19-Dec-08		FOTRs / BFE	N	36	
Lockheed	Wyman-Gordon		Jan-09	Bulkhead Forgings	Y	38	
Lockheed	NG		Jan-09	CNI	N	35	
Lockheed	BAE		Feb-09	HUD	N	31	
Lockheed	EMS		Feb-09	IFDL Antenna	N	35	
Lockheed	Parker		Feb-09	Actuators	N	35	
Total Lockheed - 4 A/C							25.3
Profit @ 15%							6.4
Total							48.9

QUESTIONS SUBMITTED BY MR. SAXTON

Mr. SAXTON. Secretary Young's oral testimony included the following statement: "Can I offer a couple of comments? I think, in selling the derivative investment idea, we should at least also talk to the taxpayer about what the military requirement is. And when Sec England had a meeting with me and the AF and everyone to try to make a decision here about how to proceed on F-22 advance procurement, he said, does the AF want to buy F-22s or not? Do you need them and do you need them in the context of your other competing priorities? And the AF said, we can't answer that question. We are working to analyze that so we can offer an opinion to the next administration. They could not offer that comment." Mr. Van Buren, does the Air Force have a requirement for more than 183 F-22s to meet the National Military Strategy? If so, how many F-22s do you need?

Mr. VAN BUREN. Congressman Saxton, the Air Force leadership is reviewing whether to propose a change to the current F-22 program of record. No decisions have been made and the Air Force leadership will be prepared to discuss this with incoming officials at the appropriate time.

QUESTIONS SUBMITTED BY MR. MILLER

Mr. MILLER. Mr. Young, in the spirit of protecting taxpayer dollars, it is my understanding that providing an additional \$140M in funding for procurement of long lead F-22 items would serve "multiple purposes" and prevent line disruption, schedule delays, and significant cost increases. This \$140M expenditure would go to multiple purpose items that would be:

- applied to the 20 new F-22 aircraft
- used as F-22 spare parts if the program is cancelled
- used as parts to meet F-35 requirements

Mr. Young, have you factored in funding "multiple purpose" long lead items now that can be used as future F-22 spare parts or for F-35 requirements if the 20 new F-22 aircraft program is canceled? Such an expenditure now would allow access to the open production lines and prevent disruption, delays and cost increases.

Secretary YOUNG. The Department has authorized the obligation of up to \$50 million for Advance Procurement in the context of a plan to buy four F-22A aircraft as directed in a November 10 Acquisition Decision Memorandum (ADM) to the Air Force. In an effort to maximize all options for the next Administration, the ADM also allows the Air Force to include a priced option for additional Advance Procurement for 16 aircraft. Furthermore, in an amendment to the aforementioned ADM, the Department has authorized the F-22 program, as part of Lot 10 Advance Procurement, to purchase long-lead titanium for 20 F-22 aircraft. These materials would be made available to the Joint Strike Fighter Program or other DoD programs requiring these materials, should the next Administration decide to terminate the F-22A production line.

The Department has factored in using the Advanced Procurement funding for multiple purposes. However, a large portion of Advanced Procurement costs are related to contracting and procurement activities, not material acquisition. If the decision is made to terminate production, these sunk costs would be wasted and unavailable for use for any other purpose. The Department believes that committing any more Advanced Procurement funding would be an inappropriate use of taxpayer dollars until a final decision is made. Actions beyond the approved ADM efforts will quickly make these materials F-22 unique and preclude use in the F-35 program. There is no requirement for additional F-22 spare parts, especially if the new administration decides not to purchase additional aircraft. DoD has been criticized for buying excess spare parts.

The Defense Department has taken actions consistent with congressional direction, limiting the obligation of tax dollars to avoid excessive sunk costs while funding the activities and materials that are essential to preserving F-22 pricing and production continuity. This is a prudent approach that preserves F-22A options with a conscious effort to minimize risk to the taxpayer.

Mr. MILLER. Will you release additional funds now for long lead items that could be applied to F22 spare parts or F-35 requirements?

Secretary YOUNG. I have approved the Air Force to use up to \$50M for Advanced Procurement for four F-22A aircraft. Additionally, the Air Force is authorized to use a portion of the \$50M for the purchase of long-lead titanium products for 20 F-22A aircraft. If the new Administration certifies that continued F-22A production is in the national interest, the remainder of the AP funds appropriated in FY 2009 will

be used for the additional 16 aircraft. If the new Administration certifies that is in the national interest to terminate F-22A production, the titanium materials and products purchased will be made available as F-22A spare parts or for F-35 requirements. No further funding will be authorized until the new Administration certifies under the timeline directed in section 134 of the FY 2009 National Defense Authorization Act.

